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भारत का राजपत्र The Gazette of India

सं० 18]

नई दिल्ली, शनिवार, अप्रैल 29, 1972/वैशाख 9, 1894

No. 18]

NEW DELHI, SATURDAY, APRIL 29, 1972/VAISAKHA 9, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर)

केन्द्रीय प्राधिकरणों द्वारा जारी किये गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

CABINET SECRETARIAT

(Department of Statistics)

New Delhi, the 17th April, 1972.

S.O. 1009.—Whereas on the relinquishing of the post of the Chief Director, National Sample Survey by Dr. N. T. Mathew on the afternoon of the 4th January, 1971, the Central Government appointed Shri N. S. Murthi, Deputy Director (Admn.), Field Operations Division, National Sample Survey Organisation (holding additional charge of the current duties of the post of Director, Field Operations Division, National Sample Survey Organisation) as the Statistics Authority under the notification of the Government of India in the Cabinet Secretariat, Department of Statistics, No. S.O. 752, dated the 2nd February, 1971;

And whereas Dr. N. K. Chakravarti has assumed charge of the post of Director, Field Operations Division, National Sample Survey Organisation on the forenoon of the 19th January, 1972, and Shri N. S. Murthi has relinquished the additional charge of the current duties of the post of the Director.

Now, therefore, in exercise of the powers conferred by section 4 of the Collection of Statistics Act, 1953 (32 of 1953), the Central Government hereby rescinds the notification of the Government of India in the Cabinet Secretariat, Department of Statistics, No. S.O. 752, dated the 2nd February, 1971, and appoints the Director, Field Operations Division, National Sample Survey Organisation to be the Statistics Authority for the purpose of collecting statistics relating to the matters referred to in the notification of the Government of India in the Cabinet Secretariat No. S.O. 462,

dated the 18th February, 1960, and makes the following amendment in the said notification No. S.O. 462, dated the 18th February, 1960, namely:—

In the said notification, for the words, brackets and abbreviation "the Deputy Director (Admn.), Field Operations Division", the words "Director, Field Operations Division, National Sample Survey Organisation" shall be substituted.

[No. W-12011/3/70-NSS.I.]

J. P. SINGH, Dy. Secy.

मंत्रिमंडल सचिवालय

सांख्यिकी विभाग

नई दिल्ली, 17 अप्रैल, 1972

क्रा० आ० 1009.—यतः डाक्टर एन० टी० मैथ्यू द्वारा 4 जनवरी, 1971 के अपराह्न में राष्ट्रीय नमूने सर्वेक्षण के मुख्य निदेशक पद का कार्य भार छोड़ने के उपरान्त केन्द्रीय सरकार ने क्षेत्रीय कार्य संचालन प्रभाग, राष्ट्रीय नमूना सर्वेक्षण संगठन के उप-निदेशक (प्रशासन) श्री एन० एस० मूर्ति (जो क्षेत्रीय कार्य संचालन प्रभाग, राष्ट्रीय नमूना सर्वेक्षण संगठन के निदेशक पद के वर्तमान कर्तव्यों का अतिरिक्त कार्यभार संभाले हुए हैं) को भारत सरकार, मंत्रिमंडल सचिवालय, सांख्यिकी विभाग की

अधिसूचना संख्या सां० आ० 752 दिनांक 2 फरवरी 1971 के अधीन सांख्यिकीय प्राधिकारी नियुक्त किया।

और जब कि डाक्टर एन० के० चक्रवर्ती ने 19 फरवरी, 1972 को पूर्वाह्न से क्षेत्रीय कार्य संचालन प्रभागी राष्ट्रीय नमूना सर्वेक्षण संगठन के निदेशक पद का कार्यभार संभाल लिया, और श्री एन० एस० मूर्ति ने निदेशक पद के वर्तमान कर्तव्यों का अतिरिक्त कार्यभार छोड़ दिया ;

अब, इसलिए आंकड़ा संग्रह अधिनियम, 1953 की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्—द्वारा भारत सरकार मंत्रिमंडल सचिवालय, सांख्यिकी विभाग की अधिसूचना संख्या सां० आ० 752 दिनांक 2 फरवरी, 1971 को निरमित (विश्रुद्धित) करती है और भारत सरकार, मंत्रिमंडल सचिवालय की अधिसूचना संख्या सां० आ० 462 दिनांक 18 फरवरी, 1960, में संदर्भित मामलों से सम्बद्ध आंकड़ों के संग्रह के उद्देश्य से सांख्यिकीय प्राधिकारी के रूप में क्षेत्रीय कार्य संचालन प्रभाग, राष्ट्रीय नमूना सर्वेक्षण संगठन के निदेशक की नियुक्ति करती है और उक्त अधिसूचना संख्या सां० आ० 462 दिनांक 18 फरवरी, 1960 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में “उप-निदेशक (प्रशा) क्षेत्रीय कार्य संचालन प्रभाग” शब्दों, कोष्ठकों तथा शब्द-संक्षेप के स्थान पर “निदेशक, क्षेत्रीय कार्य संचालन प्रभाग, राष्ट्रीय नमूना सर्वेक्षण संगठन” शब्द प्रस्थापित किये जायेंगे।

[सं० फा० डबल्यू० 12021/3/70-रा० न० सर्वे०]

ज० प्र० सिंह,

उप सचिव।

MINISTRY OF FOREIGN TRADE

New Delhi, the 29th April, 1972

S.O. 1010.—In pursuance of Rule 7 of the Export of Footwear (Inspection) Rules, 1967 the Central Government hereby directs that the following amendment shall be made to the notification of the Government of India, in the Ministry of Foreign Trade No S.O. 5013 dated 4th October, 1971, namely:—

In column (2) of the table appearing below the said notification—

Under the heading “Bombay Region (Covering the States of Maharashtra, Gujarat and the Union Territories of Goa, Daman & Diu)” for serial number 1 the following entry shall be substituted, namely:—

“1. Dr. D. K. Ghosh, Director (Leather), Khadi & Village Industries Commission, Irla Road, “Gramodaya”, Bombay-56—Chairman”

and under the heading “Madras Region (Covering the States of Andhra Pradesh, Tamil Nadu and the Union Territories of Laccadive, Minicoy, Amindivi Island and Pondicherry)” for serial number 4 the following entry, shall be substituted, namely:—

“4. The Deputy Manager (Leather) Tamil Nadu Small Industries Corporation Ltd., 35/2, Woods Road, Mount Road, Madras 2”

[No. 6(3)/71-EI&EP.]

विदेश व्यापार मंत्रालय

नई दिल्ली, 29 अप्रैल, 1972

का० आ० 1010.—जूते निर्यात (निरीक्षण) नियम, 1967 के नियम 7 के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा निदेश देती है कि भारत सरकार के विदेश व्यापार मंत्रालय की अधिसूचना संख्या का० आ० 5013, तारीख 4 अक्टूबर, 1971 में निम्नलिखित संशोधन किया जाएगा, अर्थात् :—

• उक्त अधिसूचना के नीचे आने वाली सारणी के स्तम्भ (2) में :—“सम्बद्ध क्षेत्र (महाराष्ट्र, गुजरात राज्यों और गोवा, दमण और दीव संघ राज्यक्षेत्रों को मिलाकर)” शीर्ष के नीचे, क्रम संख्या 1 के स्थान पर, निम्नलिखित प्रविष्टि प्रतिस्थापित की जायेगी, अर्थात् :—

“1 डा० डी० के० घोष, निदेशक (चर्म)

खादी तथा ग्रामोद्योग आयोग, दरवा रोड,

“ग्रामोद्योग”, सम्बद्ध-56

—अध्यक्ष

और मद्रास क्षेत्र (आन्ध्र प्रदेश, तमिल नाडु राज्यों और लक्कादीव, मिनिकोय, अमिनादेवी द्वीप समूह और पांडिचेरी के संघ राज्य क्षेत्रों को मिलाकर)” शीर्ष के नीचे, क्रम संख्या 4 के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जायेगी, अर्थात् :—

“4 उप-प्रबन्धक (चर्म)

तमिल नाडु लघु उद्योग निगम लिमिटेड,

35/2 वुड्स रोड,

माउन्ट रोड,

मद्रास-2”।

[सं० 6 (3)/71-ई०आई० एण्ड ई०पी०]

S.O. 1011.—In pursuance of rule 8 of the Export of Dried Shark Fins and Fish Maws (Inspection) Rules, 1969 the Central Government hereby directs that the following amendment shall be made to the notification of the Government of India in the Ministry of Foreign Trade No. S.O. 94 dated 5th January, 1970, namely:—

In column (2) of the Table appearing below the said notification:—

Under the heading “Madras Region (covering the States of Kerala, Mysore, Tamil Nadu and Andhra Pradesh and the Union Territories of Pondicherry, Laccadives, Minicoy and Amindivi islands)” for serial No. 6, the following entry shall be substituted, namely:—

“6. The Secretary, Tamil Nadu Marine Products Exporters' Association, 43, Post Office Street, Madras-1.—*Ex-officio.*”

[No. 6(18)/71-EIEP.]

M. K. B. BHATNAGAR,

Deputy Director (Export Promotion).

का० आ० 1011.—सूखे शार्क पंख और मछली उदर निर्यात (निरीक्षण) नियम, 1969 के नियम 8 के अनुसार में, केन्द्रीय सरकार, एतद्द्वारा निदेश देती है कि भारत सरकार के विदेश

व्यापार मंत्रालय की अधिसूचना सं० का० आ० 94, तारीख 5 जनवरी, 1970 में निम्नलिखित संशोधन किया जाएगा, अर्थात् :—

उक्त अधिसूचना के नीचे की सारणी के स्तंभ (2) में :—

“मद्रास क्षेत्र (जिसके अंतर्गत केरल, मैसूर, तमिलनाडु, और आंध्र प्रदेश के राज्य और पांडिचरी, लक्कादीव, मिनिक्कोय और अमीनीदीपी द्वीपसमूह के संघ राज्य क्षेत्र हैं)” के शीर्ष के नीचे कम संख्या 6 के स्थान पर निम्नलिखित प्रविष्टि प्रतिस्थापित की जायेगी, अर्थात् :—

“सचिव,

तमिलनाडु, मैरीन प्राइवटर एकापोर्टम एगोशिएशन, 43, पोस्ट आफिस स्ट्रीट,

मद्रास-1

पदेन।”

[सं० 6(18)/71, ई०आई०ई०पी०]

एस० के० बी० भटनागर,

उप निदेशक (नि० सं०)।

MINISTRY OF SHIPPING AND TRANSPORT

(Transport Wing)

New Delhi, the 19th April 1972

S.O. 1012.—In exercise of the powers conferred by sub-section (1) of section 5 of the Road Transport Corporations Act, 1950 (64 of 1950), the Central Government hereby appoints Shri K. Sivaraj, Joint Secretary, Ministry of Shipping and Transport, as a member of the Delhi Transport Corporation vice Shri K. Narayanan, retired, and makes the following amendment in the notification of the Government of India in the Ministry of Shipping and Transport No. S.O. 5083 dated the 3rd November, 1971, namely:

In the said notification, for item 2 and the entries relating thereto the following item shall be substituted namely:—

“2. Shri K. Sivaraj, Joint Secretary, Ministry of Shipping and Transport.”

[No. 5-TAG(23)/71.]

HARBANS SINGH, Dy. Secy.

नौवहन और परिवहन मंत्रालय

(परिवहन पक्ष)

नई दिल्ली, 19 अप्रैल, 1972

एस० ओ० 1012—सड़क परिवहन निगम अधिनियम, 1950 (1950 का 64) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार एतद्वारा श्री के० शिवराज, संयुक्त सचिव, नौवहन तथा परिवहन मंत्रालय को श्री के० नारायणन, सेवा निवृत्त, के स्थान पर दिल्ली परिवहन निगम के सदस्य के रूप में नियुक्त करती है और भारत सरकार के नौवहन तथा परिवहन मंत्रालय की अधिसूचना संख्या का० आ० 5083

दिनांक 3 नवम्बर, 1971 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, मद 2 और उस से सम्बन्धित प्रविष्टियों के स्थान पर निम्नलिखित मत प्रतिस्थापित की जाएगी, अर्थात् :—

“2. श्री के० शिवराज, संयुक्त सचिव,
नौवहन तथा परिवहन मंत्रालय।”

[संख्या 5-टी० ए० जी० (23)/71]

हरबंस सिंह, उप सचिव।

ELECTION COMMISSION OF INDIA

ERRATA

In the notification of the Election Commission of India dated the 2nd March, 1972, published as S.O. 876 at pp. 1101-1102 of the Gazette of India, Part II—Section 3(ii) dated the 11th March, 1972, at page 1101,—

- (i) in the second line, for 2nd March 1972 as the date of the notification read “1st March 1972”;
- (ii) in the fifteenth line of the notification, for the words ‘In the matter of the Election to the House of the’ read “In the matter of a petition under Section 80 of the”; and
- (iii) in the sixth line from the bottom, for the words ‘Chief Election Commission’ read “Chief Election Commissioner”.

MINISTRY OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 19th April 1972

S.O. 1013.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs hereby specifies the 16th May, 1972 as the date on which the Measured Rate System will be introduced in BHADRAVATI Telephone Exchange, Mysore Circle.

[No. 5-32/72-PHB(2).]

H. C. MATHUR,
Director of Phones (E).

संसार विभाग

(डाक-तार बॉर्ड)

नई दिल्ली, 19 अप्रैल, 1972

स्थायी आदेश सं० 1013 स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम 1951 के नियम 434 के खण्ड iii के पैरा (क) के अनुसार डाक तार महानिदेशक ने भद्रावती टेलीफोन केन्द्र में दिनांक 16-5-72 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-32/72-पी० एच० बी० (2)]

एच० सी० माथर,

निदेशक फोन्स (ई)।

MINISTRY OF FINANCE
(Department of Revenue and Insurance)

INSURANCE

New Delhi, the 15th April 1972

S.O. 1014.—The following draft of rules further to amend the Insurance Rules, 1939, which the Central Government proposes to make in exercise of the powers conferred by section 64UB and section 114 of the Insurance Act, 1938 (4 of 1938), is published as required by sub-section (1) of the said section 114, for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration after 45 days from the date of publication of this notification in the Official Gazette.

2. Any objections or suggestions which may be received from any person with respect to the draft before the period specified above will be considered by the Central Government.

Draft Rules

1. These rules may be called the Insurance (Amendment) Rules, 1972.

2. In the Insurance Rules, 1939 (hereinafter referred to as the said rules), rule 46 shall be omitted.

3. For rule 60 of the said rules, the following rule shall be substituted, namely:—

“60. *Term of Office.*—Any person nominated as a member of the Consultative Committee constituted under sub-section (1) of section 110G of the Act (hereafter referred to in rules 61 to 65 as the Committee) shall hold office for a period not exceeding three years or such further periods not exceeding three years at a time as the Central Government may specify.”

4. In the said rules, in rule 61, for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) Any member of the Committee may resign his membership of the Committee by notice in writing addressed to the Secretary to the Government of India, Ministry of Finance (Department of Revenue and Insurance) to that effect and such resignation shall take effect from the date on which it is accepted by the Central Government or on the expiry of a period of thirty days from the date of its receipt by the Central Government, whichever is earlier.”

5. In the said rules, in Schedule II, for regulation 13, the following regulation shall be substituted, namely:—

“13. *Disputes.*—If any doubt or dispute arises regarding the interpretation of these provisions of these regulations or regarding the validity of any election held under these regulations, it shall be referred to the Central Government for decision.”

[No. F. 51(3)-Ins.1/70.]

M. L. WADHAWAN, Dy. Secy.

वित्त मंत्रालय

(राजस्व और बीमा विभाग)

बीमा

नई दिल्ली, 15 अप्रैल, 1972

क्र० आ० 1014—बीमा नियम, 1939 में और संशोधन करने के लिए नियमों का निम्नलिखित प्रारूप, जिसे केन्द्रीय सरकार, बीमा अधिनियम, 1938 (1938 का 4) की धारा 64 पंख

और धारा 114 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, बनाने को प्रस्थापना करती है, सभी ऐसे व्यक्तियों की, जिनका इसके द्वारा प्रभावित होना सम्भाव्य है, जानकारी के लिए, उक्त धारा 114 की उपधारा (1) की अपेक्षानुसार प्रकाशित किया जाता है और एतद्वारा यह सूचना दी जाती है कि उक्त प्रारूप पर राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 45 दिन के पश्चात् विचार किया जाएगा।

2. ऐसे आक्षेपों या सुझावों पर, जो इस प्रारूप के संबंध में किसी व्यक्ति से ऊपर विनिर्दिष्ट अवधि से पूर्व प्राप्त होंगे, केन्द्रीय सरकार द्वारा विचार किया जाएगा।

प्रारूप नियम

1. इन नियमों का नाम बीमा (संशोधन) नियम, 1972 होगा।

2. बीमा नियम, 1939 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है) में, नियम 46 लुप्त कर दिया जाएगा।

3. उक्त नियमों के नियम 60 के स्थान पर, निम्नलिखित नियम प्रतिस्थापित किया जाएगा, अर्थात् :—

“60. *पदावधि*—कोई ऐसा व्यक्ति, जो अधिनियम की धारा 110 छ की उपधारा (1) के अधीन गठित परामर्शदात्री समिति (जिसे इसमें इसके पश्चात् नियम 61 से 65 तक में समिति कहा गया है) का सदस्य नामनिर्दिष्ट किया गया हो, तीन वर्षों से अनधिक अवधि तक या एक समय पर तीन वर्षों से अनधिक की ऐसी अवधि तक जिन्हे सरकार विनिर्दिष्ट करे, पद धारण करेगा।”

4. उक्त नियमों में, नियम 61 में, उपनियम (1) के स्थान पर, निम्नलिखित उपनियम प्रतिस्थापित किया जाएगा, अर्थात् :—

“(1) समिति का कोई सदस्य, वित्त मंत्रालय (राजस्व और बीमा विभाग) में भारत सरकार के सचिव को सम्बोधित उस भाव की लिखित सूचना द्वारा समिति की अपनी सदस्यता से त्यागपत्र दे सकेगा और ऐसा त्यागपत्र उस तारीख से जिसको वह केन्द्रीय सरकार द्वारा स्वीकार किया गया हो या केन्द्रीय सरकार द्वारा उसको प्राप्त करने की तारीख से तीस दिन की अवधि समाप्त हो जाने पर, इनमें से जो भी पूर्वतर हो, प्रभावी होगा।”

5. उक्त नियमों में, अनुसूची 2 में, विनियम 13 के स्थान पर, निम्नलिखित विनियम प्रतिस्थापित किया जाएगा, अर्थात् :—

“13. *विवाद*—यदि इन विनियमों के उपबन्धों के निर्वाचन के संबंध में या इन विनियमों के अधीन कराए गए किसी निर्वाचन की विधिमान्यता के संबंध में कोई संदेह या विवाद उठे तो वह विनिश्चय के लिए केन्द्रीय सरकार को निर्दिष्ट किया जाएगा।”

[सं० फा० 51(3)—बीमा-1/70]

एम० एल० बघावन, उप सचिव।

(Department of Revenue & Insurance)

ORDER

New Delhi, the 29th April 1972

S.O. 1015.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the additional *ad hoc* bond to the value of thirty four lakhs of rupees. to be issued by the Gujarat State Financial Corporation, is chargeable under the said Act.

[No. 13/72-Stamp/F. No. 471/22/72-Cus.VII.]

K. SANKARARAMAN, Under Secy.

(राजस्व और बीमा विभाग)

आदेश

स्टाम्प

नई दिल्ली, 29 अप्रैल, 1972

एस० नं० 1015 भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उतने शुल्क से छूट देती है जितना गुजरात राज्य वित्तीय निगम द्वारा जारी किए जाने वाले चौत्तीस लाख रुपए के मूल्य के अतिरिक्त तदर्थ बंधपत्रों पर उक्त अधिनियम के अधीन प्रभाय है।

[सं० 13/72-स्टाम्प/का० सं० 471/22/72-सीमा० शुल्क० 7]

के० शंकररामन,

प्रवर सचिव।

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 14th March, 1972

S.O. 1016.—In pursuance of section 7 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961), the Central Government hereby publishes the following report of the Iron Ore Mines Labour Welfare Fund's activities under the said Act, during the year ended the 31st day of March, 1971 together with a statement of accounts for that year.

PART—I

General—

The Iron Ore Mines Labour Welfare Fund has been constituted under the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961), which provides for the levy and collection of cess on the production of iron ore for the financing of activities to promote the welfare of labour employed in the iron ore mining industry. The Act provides for the levy of a cess at a rate not exceeding 50 paise per metric tonne of iron ore produced. The present rate of levy is 25 paise per metric tonne. The Act is applicable to the whole of India. The Act was enforced with effect from the 1st October, 1963, except in the Union territory of Goa, Daman and Diu, where it came into force from 1st October, 1964. The Act has been amended by the Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1970 providing for a change in the existing procedure of cess collection. Instead of the present levy on all iron ore produced in any mine and paid by the producing mines, the cess will be levied as a duty of customs where the iron ore is exported and a duty of

excise where the iron ore is consumed within the country. The revised procedure will be given effect to as soon as the amendment Act is brought into force.

2. The Welfare activities for which the proceeds of cess are to be utilised under the Act relate to improvement of public health and sanitation, prevention of diseases and provision of medical facilities, drinking water supply and facilities for washing, provision of educational facilities, improvement of standards of living including housing and nutrition, amelioration of social conditions, provision of recreational facilities and provision of transport to place of work.

3. As recommended by the Central Advisory Board at its second Meeting held on January 16, 1969, a Committee for Development of Prototype Schemes for the benefit of iron ore miners of various regions was constituted to recommend Prototype Schemes suitable for implementation in the iron ore mining areas keeping in view the schemes already in vogue under the Coal Mines Labour Welfare Fund and Mica Mines Labour Welfare Fund and also taking into account the needs of the workers concerned and the resources available. The Committee recommended in all 18 schemes 4 for Housing, 2 for Water Supply, 5 for Health Facilities and 7 Miscellaneous (education, recreational etc.). Apart from these Schemes, the Committee also made certain general recommendations. The Report of the Committee was considered by the Central Advisory Board at its meeting held on November 3, 1970. The Board has approved the recommendations of the Committee with some modifications. Most of the Schemes particularly those relating to Housing and Water Supply recommended by the Prototype Committee have been approved by Government and the remaining Schemes are under consideration.

4. The following welfare measures have so far been undertaken in the State of Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Mysore, Orissa and the Union Territory of Goa Daman & Diu.

(i) **Medical facilities.**—The medical facilities provided include a 10 bedded Emergency Hospital at Barajamda and also a mobile dispensary in Bihar region, two Primary Health Centres at Joda and Joruri in the Orissa region, two mobile medical units—one for Redi Mine (Madhya Pradesh) and the other for Rajhara Mines (Madhya Pradesh), two mobile dispensaries—one for Bellary and the other for Hospital in Mysore region and one mobile dispensary in Goa region. Besides, two mobile medical units for Andhra Pradesh region and two ambulance vans for Goa region have been sanctioned. An Ambulance-cum-Mobile Medical Dispensary van was placed at the disposal of the National Mineral Development Corporation for the benefit of Iron Ore miners and their families of Bailadila Iron Ore Project in Madhya Pradesh. Two Central Hospital—one each for the Goa and Mysore regions, with 20 and 25 beds respectively, have also been sanctioned. Beds continued to be reserved for the exclusive use of iron ore miners and their families suffering from T. B. and requiring sanatorium treatment. The number of beds reserved in Mahadevi Birla Sanatorium Ranchi for the use of iron ore mine workers of the Bihar region and their families was raised from 35 to 45. 6 beds in the same hospital have also been reserved for the use of iron ore mine workers of Orissa region. 3 beds reserved in the T.B. Sanatorium, Raipur for the benefit of iron ore mine workers of Madhya Pradesh region and their families were discontinued, as 2 beds had been reserved for them in the Bhilai main hospital, Bhilai. Similarly 5 T.B. beds have also been reserved at St. Luke's Hospital, Vengurla (Goa). In addition to this 16 beds in public hospitals in Goa region were also

reserved for the iron ore miners. Financial assistance for the iron ore miners and their families suffering from T.B. is also given by the Fund. Arrangements made for treatment of Leprosy patients in the Mission hospital at Purlia (Bihar) and for specialised eye treatment of iron ore workers in Madhya Pradesh and Maharashtra were also continued. The Scheme for treatment of iron ore workers and their family members suffering from mental diseases was also continued in Bihar. Grants-in-aid were given to mine owners in Madhya Pradesh, Orissa in Goa regions who maintained satisfactory dispensary services for the benefit of iron ore miners. Sanction was also issued for payment of grants-in-aid to the National Minerals Development Corporation for purchase of specialised hospital equipment for their hospital at Balidila in Madhya Pradesh and to M/s. TISCO for their hospital at Noamundi in Bihar. An X-ray plant was also sanctioned for the hospital maintained by the N.M.D.C. at Kiriburu in Bihar.

(ii) *Educational and Recreational facilities.*—The number of Institutions providing these facilities to the iron ore miners and their families in the various regions was as under:—

- (a) Multi-purpose Institute—36 (31 in Orissa, 2 in Goa, 1 in M. P. 1 in Mysore and 1 in Maharashtra) (b) Welfare Centres—1 in Orissa region (c) Women-cum-children welfare Centres—6 in Bihar region.
- (d) Cinema Units—4 (1 in Orissa, 1 in Goa and 2 in Madhya Pradesh)
- (e) Holiday Homes—2 (1 in Orissa and 1 in Goa).
- (f) Radio Centres—123 (30 in Orissa attached to multi-purpose institute, 39 in Mysore, 8 in Madhya Pradesh, 5 in Bihar, 26 in Goa and 5 in Maharashtra).

During the year under report, two mobile cinema units—one each for the Mysore and Bihar regions were sanctioned. Two additional Radio Centres were also sanctioned in Bihar region. Excursion-cum-study tours were also arranged in some regions. Grants-in-aid to mine owners for organising sports, games, tournaments, etc., were given in Madhya Pradesh region. Scholarships continued to be given to the children of iron ore miners. The mid-day Meals Scheme in vogue in Goa region was also introduced in the Rajhara and Bailadila regions of Madhya Pradesh. Uniforms to the school going children were also supplied in certain regions.

(iii) *Drinking water facilities.*—In view of the emphasis being laid on the speedy implementation of water supply schemes, special steps were taken to sink wells in various regions. Two were sunk by the Fund for Kokan Mines in Madhya Pradesh. In Mysore region also two wells were sunk. The following water supply schemes were also sanctioned.

1. Grants-in-aid of Rs. 30,750/- to M/s. Hindustan Steel Ltd. for installation of a pumping set with overhead tanks at Rajhara (Due to some technical difficulty, the sanction could not be availed by the Mine Management).
2. Grant-in-aid of Rs. 10,662/- to M/s. Ecco Goa Pvt. Ltd. Bimbol Mine, Goa, for Bimbol Water Supply Scheme.
3. Grants-in-aid of Rs. 10,657/- to M/s. V. S. Dempo Pvt. Ltd., Surla Mine, Goa for Surla Water Supply Scheme.
4. Grants-in-aid of Rs. 10,000/- to M/s. Gogte Mineral for purchase of new pump and

engine put up on a well for supplementing the water supply in Maharashtra region.

In addition to the above, water supply schemes of M/s. Bolani Ores Ltd. and M/s. Rungta Mines of Orissa region costing Rs. 11,35,000/- and Rs. 2,34,000/- respectively were under consideration.

(iv) *Housing Facilities.*—Construction of house under the New Housing Scheme and the Low Cost Housing Scheme was in progress in various regions. The progress of construction was as under:—

1. *Bihar*—In Bihar 400 houses were completed and 100 houses were nearing completion, under the New Housing Scheme. 30 Houses were completed under the Low Cost Housing Scheme. Sanction was also issued for construction of 176 more houses under the New Housing Scheme.
2. *Madhya Pradesh*—In Madhya Pradesh 300 tubular houses were completed in the Bailadila region. 198-B-II type houses and 6 houses under the New Housing Scheme were also constructed. Sanction was issued for construction of 1,000 houses under Low Cost Housing Scheme in the Rajhara region. Sanction was also issued for construction of 160 B-II type houses in the Bailadila region.
3. *Mysore*—Out of 454 houses sanctioned for construction under the New Housing Scheme, 160 houses were completed. The construction of 79 houses was in progress.
4. *Goa*—In Goa out of 505 houses sanctioned—497 under the New Housing Scheme and 8 under the subsidised Housing Scheme—86 houses under the New Housing Scheme have been completed and construction of 64 houses was in progress.
5. *Orissa*—Out of 434 houses sanctioned since 1968-69, 150 houses were completed and 249 houses were under different stages of construction.

(v) *Co-operative Store.*—One Central Consumer Co-operative store with three primary stores in the Bihar region, continued to function. A sumer-Co-operative with four primary stores in the Bihar region, continued to function. A sum of Rs. 8,960/- was granted as loan to the Consumers' Co-operative Store of M/s. Emco Goa Pvt. Ltd. in the Goa region.

(vi) *Iron Ore Mines Fatal and Serious Accident Benefit Scheme.*—In Orissa four iron ore miners/dependents were given financial benefit under this scheme. In Goa also financial assistance of Rs. 1,260/- was given to iron ore miners under this Scheme.

5. The following important decisions were taken at the Third Meeting of the Central Advisory Board;

- (i) The Board reiterated its earlier decision that the Fund should not undertake to provide welfare facilities which were clearly the responsibility of the State Government such as Primary education.
- (ii) The Fund should not invest any further funds in the consumer Co-operatives. Steps should be taken to recover the loans already advanced and at the same time ensure that the existing stores function on right lines.
- (iii) The income of the Fund should be allocated amongst various welfare Schemes such as Water Supply, Housing and Health facilities

to avert lopsided development of the different facilities. It was decided to allocate the funds tentatively as under:—

- Housing—40 per cent.
- Water Supply—20 per cent.
- Medical facilities—20 per cent.
- Other facilities—20 per cent.

The State Level Advisory Committee were to consider these percentages allocations and communicate their views.

PART II

Statement of Accounts for the year 1970-71

	Receipts (in Rs.)	Expenditure (in Rs.)
Opening balance as on 1st April, 1970	2,79,69,724	
Receipts during the year	89,82,624	
Expenditure during the year		60,78,606 (Provisional)
Closing balance as on 31st March, 1971	3,08,73,742 (Provisional)	

PART III

Estimates of Receipts and Expenditure for the year 1971-72

Estimated Receipts	88,44,000
Estimated Expenditure	99,33,000

[No. Z-16016/6/71-MIII.]

C. R. NAIR, Under Secy.

श्रम और पुनर्वास मंत्रालय

(श्रम और रोजगार विभाग)

नई दिल्ली, 14 मार्च, 1972

का० आ० 1016.—लौह अयस्क खान श्रमिक कल्याण उपकर अधिनियम, 1961 (1961 का 58) की धारा 7 के अनुसरण में केन्द्रीय सरकार एतद्वारा 31 मार्च, 1971 को समाप्त हुए वर्ष के दौरान उक्त अधिनियम के अधीन वित्त-पोषित लौह अयस्क खान श्रमिक कल्याण निधि के क्रियाकलापों की निम्नलिखित रिपोर्ट उक्त वर्ष के लेखा-विवरण सहित प्रकाशित करती है।

भाग 1

साधारण.—लौह अयस्क खान श्रमिक कल्याण निधि, लौह अयस्क खान श्रमिक कल्याण उपकर अधिनियम, 1961 (1961 का 58) के अधीन गठित की गई है, जिसमें लौह अयस्क खनन उद्योग में नियोजित श्रमिकों के कल्याण को बढ़ावा देने वाले क्रिया-कलापों को वित्त-पोषित करने के लिए लौह अयस्क के उत्पादन पर उपकर से उदग्रहण और संग्रहण का उपबन्ध किया गया है। अधिनियम उत्पादित लौह अयस्क के प्रति मीटरी टन 50 पैसे से अनधिक दर पर उपकर के उदग्रहण का उपबन्ध करता है। उपकर की वर्तमान दर 25 पैसे प्रति मीटरी टन है। अधिनियम सम्पूर्ण भारत पर लागू होता है। अधिनियम, गोआ, दमण

और दीव के संघ राज्य-क्षेत्रों को छोड़ कर, जहाँ वह 1 अक्टूबर, 1964 से प्रवृत्त हुआ था, 1 अक्टूबर, 1963 से प्रवर्तित किया गया था। अधिनियम में लौह अयस्क श्रमिक कल्याण उपकर (संशोधन) अधिनियम, 1970 द्वारा संशोधन किया गया है जिससे उपकर के संग्रहण की वर्तमान प्रक्रिया में परिवर्तन करने का उपबन्ध किया गया है। किसी भी खान में उत्पादित सारे लौह अयस्क पर और उत्पादन करने वाली खानों द्वारा संदत वर्तमान उदग्रहण के स्थान पर, जहाँ लौह अयस्क का निर्यात किया जाता है, वहाँ उपकर का उदग्रहण सीमा-शुल्क के रूप में और जहाँ लौह अयस्क का उपभोग देश के अन्दर ही होता है, वहाँ उसका उदग्रहण उत्पाद-शुल्क के रूप में किया जाएगा। संशोधन अधिनियम के प्रवृत्त होने पर यथाशक्य शीघ्र पुनरीक्षित प्रक्रिया प्रभावी हो जाएगी।

2. अधिनियम के अधीन जिन कल्याण संबंधी क्रिया-कलापों के लिए उपकर के आगमों का उपयोग किया जाना है, वे सार्वजनिक स्वास्थ्य और सफाई में सुधार, रोगों की रोक-थाम, और चिकित्सा सम्बन्धी सुविधाओं की व्यवस्था, पीने के पानी की सप्लाई और धुलाई की सुविधाओं, शिक्षा सम्बन्धी सुविधाओं की व्यवस्था, जीवन के स्तरों में सुधार जिनमें आवास और आहार-पुष्टि शामिल है, सामाजिक दशाओं में सुधार, मनोरंजन सम्बन्धी सुविधाओं की व्यवस्था और कार्य-स्थान पर ले जाने के लिए परिवहन की व्यवस्था से सम्बन्धित हैं।

3. 16 जनवरी, 1969 को हुई केन्द्रीय सलाहकार बोर्ड के दूसरे अधिवेशन में बोर्ड द्वारा की गई सिफारिश के अनुसार विभिन्न क्षेत्रों के लौह अयस्क खनिकों के फायदे के लिए आदर्श-रूप स्कीमों के विकास के लिए एक समिति गठित की गई थी ताकि वह, कोयला खान श्रमिक कल्याण निधि और अन्न खान श्रमिक कल्याण निधि के अन्तर्गत पहले से चल रही स्कीमों को ध्यान में रखते हुए और साथ ही सम्बन्धित श्रमिकों की आवश्यकताओं और उपलब्ध साधनों को ध्यान में रखते हुए भी लौह अयस्क खनन क्षेत्रों में कार्यान्वयन के लिए उपयुक्त आदर्शरूप स्कीमों की सिफारिश करे। समिति ने कुल मिलाकर 18 स्कीमों की 4 आवास के लिए, 2 पानी की सप्लाई के लिए, 5 स्वास्थ्य सम्बन्धी सुविधाओं के लिए और 7 प्रकीर्ण (शिक्षा सम्बन्धी, मनोरंजन सम्बन्धी आदि) की सिफारिश की थी। इन स्कीमों के अतिरिक्त, समिति ने कुछ साधारण सिफारिशें भी कीं। समिति की रिपोर्ट पर केन्द्रीय सलाहकार बोर्ड ने 3 नवम्बर, 1970 को हुए अपने अधिवेशन में विचार किया था। बोर्ड ने कुछ उपान्तरणों के साथ समिति की सिफारिशों को अनुमोदित कर दिया है। सरकार ने, आदर्शरूप समिति द्वारा सिफारिश की गई अधिकांश स्कीमों को-विशेषतः आवास और पानी की सप्लाई से सम्बन्धित स्कीमों को अनुमोदित कर दिया है और शेष स्कीमों में विचाराधीन हैं।

4. अभी तक आंध्र प्रदेश, बिहार, मध्य प्रदेश, महाराष्ट्र, मैसूर और उड़ीसा राज्यों में और गोआ, दमण और दीव के संघ राज्य क्षेत्रों में निम्नलिखित कल्याण अध्यापय हाथ में लिए गए हैं :—

(i) चिकित्सा सम्बन्धी सुविधाएं :—दी गई चिकित्सा सम्बन्धी सुविधाओं में, बाराजाम्बदा में एक 10

पलंगों वाला आपात अस्पताल और बिहार क्षेत्र में एक चल औषधालय भी, उड़ीसा क्षेत्र में जोड़ा और जोरु में दो प्राथमिक स्वास्थ्य केन्द्र, दो चल चिकित्सा यूनिटें—एक रेडी खान (महाराष्ट्र) के लिए और दूसरी राजहारा खानों (मध्य प्रदेश) के लिए, दो चल औषधालय—एक मैसूर क्षेत्र में बेल्लारी के लिए और दूसरा हास्पट के लिए और गोम्रा क्षेत्र में एक चल औषधालय शामिल है। इनके अतिरिक्त, आंध्र प्रदेश क्षेत्र के लिए दो चल चिकित्सा यूनिटें और गोम्रा क्षेत्र के लिए दो अस्पताल-गाड़ियां मंजूर की गई हैं। एक एंब्युलेंस एवं चल चिकित्सालय गाड़ी मध्य प्रदेश के बलाडिला आयरन और प्राजेक्ट लोह अग्रस्क खनिकों और उनके कुटुम्बों के फायदे के लिए राष्ट्रीय खनिज विकास निगम को दे दी गई थी। दो केन्द्रीय अस्पतालों—गोम्रा और मैसूर क्षेत्रों के लिए क्रमशः 20 और 25 पलंगों वाले एक-एक को भी मंजूरी दी गई है। ऐसे लोह अग्रस्क खनिकों और उनके कुटुम्बों के अनन्य उपयोग के लिए जो तपेदिक से ग्रस्त हैं और जिनके लिए आरोग्य-गृह में इलाज आवश्यक है, पलंगों का आरक्षण जारी रखा गया है। बिहार क्षेत्र के लोह अग्रस्क खान कर्मकारों और उनके कुटुम्बों के उपयोग के लिए महादेवी बिस्ला आरोग्य-गृह रांभी में आरक्षित पलंगों की संख्या 35 से बढ़ाकर 45 कर दी गई है। इसी अस्पताल में 5 पलंग उड़ीसा क्षेत्र के लोह अग्रस्क खान कर्मकारों के उपयोग के लिए भी आरक्षित रखे गए हैं। चूंकि भिलाई मृग अस्पताल, भिलाई में 2 पलंग, मध्य प्रदेश क्षेत्र के लोह अग्रस्क खान कर्मकारों और उनके कुटुम्बों के लिए आरक्षित रखे गए थे। इसलिए उनके फायदे के लिए जो 3 पलंग तपेदिक आरोग्य-गृह, रायपुर में आरक्षित रखे गए थे, वे बन्द कर दिए गए। इसी प्रकार सेंट लुकेज अस्पताल, वेन्गुर्ला (गोम्रा) में भी तपेदिक से ग्रस्त रोगियों के लिए 5 पलंग आरक्षित रखे गए हैं। इसके अतिरिक्त गोम्रा क्षेत्र में लोक अस्पतालों में भी 15 पलंग लोह अग्रस्क खनिकों के लिए आरक्षित रखे गए थे। तपेदिक से ग्रस्त लोह अग्रस्क खनिकों और उनके कुटुम्बों के लिए आर्थिक सहायता भी निधि द्वारा दी जाती है। पुरुलिया (बिहार) में स्थित मिशन अस्पताल में कोष्ठग्रस्त रोगियों के इलाज के लिए और मध्य प्रदेश और महाराष्ट्र के लोह अग्रस्क कर्मकारों की आंखों के विशेषज्ञीय इलाज के लिए किए गए प्रबंध भी जारी थे। मानसिक रोगों से पीड़ित ऐसे लोह अग्रस्क कर्मकारों और उनके कुटुम्ब के सदस्यों के इलाज की स्कीम भी बिहार में जारी रही। मध्य प्रदेश, उड़ीसा और गोम्रा

क्षेत्रों में उन खान स्वामियों को सहायता-अनुदान दिए गए थे, जिन्होंने लोह-अग्रस्क खनिकों के फायदे के लिए सन्तोषजनक औषधालय सेवाओं का प्रबंध कर रखा था। मध्य प्रदेश में बालीडिला में स्थित उनके अस्पताल के लिए विशेषज्ञीय अस्पताल उपकरण खरीदने के लिए राष्ट्रीय खनिज विकास निगम को और बिहार में नाम्नामुन्डी में स्थित मैसर्स टिसको के अस्पताल के लिए भी सहायता-अनुदान देने की मजूरी दी गई थी। बिहार में किरिबुरु में स्थित, एन०एम० डी० सी० द्वारा चलाए गए अस्पताल के लिए एक एकसरे संयंत्र भी मंजूर किया गया था।

(ii) शैक्षिक और मनोरंजन विषयक सुविधायें :—विभिन्न क्षेत्रों में लोह अग्रस्क खनिकों और उनके कुटुम्बों को ये सुविधायें देनी वाली संस्थाओं की संख्या निम्न प्रकार थी :—

(क) बहुउद्देशीय संस्थाएँ	36 (31 उड़ीसा में, 2 गोम्रा में, 1 मध्य प्रदेश में 1 मैसूर में और 1 महाराष्ट्र में।
(ख) कल्याण केन्द्र	उड़ीसा क्षेत्र में 1.
(ग) महिला एवं बाल-कल्याण केन्द्र	बिहार क्षेत्र में 6
(घ) चलचित्र यूनिटें	4 (उड़ीसा में 1, गोम्रा में 1, और मध्य प्रदेश में 2)
(ङ) अवकाश-गृह	2 (उड़ीसा में 1 और गोम्रा में 1)
(च) रेडियो केन्द्र	123 (उड़ीसा में बहु-उद्देशीय संस्था से संलग्न 30, मैसूर में 39, मध्य प्रदेश में 6, बिहार में 5, गोम्रा में 26 और महाराष्ट्र में 5)।

आलोच्य वर्ष के दौरान दो चलती-फिरती चल-चित्र यूनिटें—मैसूर और बिहार क्षेत्रों के लिए एक-एक की स्वीकृति दी गई थी। बिहार क्षेत्र में, दो अतिरिक्त रेडियो केन्द्रों की भी स्वीकृति दी गई थी। कुछ क्षेत्रों में से सैर एवं अध्ययन दौड़ों का भी प्रबंध किया गया था, मध्य प्रदेश क्षेत्र में खान स्वामियों को क्रीड़ाओं, खेलों, खेल-प्रतियोगिताओं आदि संगठित करने के लिए सहायता-अनुदान दिए गए थे। लोह अग्रस्क खनिकों के बच्चों को छात्रवृत्तियाँ देना जारी रहा। गोम्रा क्षेत्र में चल रही मध्याह्न भोजन स्कीम को मध्य प्रदेश के राजहारा और बैल डिला क्षेत्रों में भी लागू किया गया। कुछ क्षेत्रों में स्कूल जाने वाले बच्चों को वर्दियां भी दी गईं।

(iii) पैयज 1 की सविश एं :—

जल प्रदाय स्कीमों को तेजी से क्रियान्वित करने पर बल दिए जाने की दृष्टि से विभिन्न क्षेत्रों में कुएं खोदने के लिए विशेष कदम उठाए गए दो कुएं मध्य प्रदेश में कोका-खानों की निधि से खोदे गए थे। मैसूर क्षेत्र में भी दो कुएं खोदे गए। निम्नलिखित जल-प्रदाय स्कीमें भी मंजूर की गईं :—

1. राजहारा में ऊपर की ढकियों सहित एक पंपिंग सेट लगाने के लिए मैसर्स हिन्दुस्तान स्टील लिमिटेड को 30,750 रुपए का सहायता-अनुदान (कुछ तकनीकी कठिनाई के कारण खान प्रबंध मंडल द्वारा मंजूरी का लाभ नहीं उठाया जा सका)।
2. बिम्बोल जल प्रदाय स्कीम के लिए मैसर्स एककों गोआ प्राइवेट लिमिटेड, बिम्बोल खान, गोआ को 10,662 रुपए का सहायता-अनुदान।
3. मैसर्स बी० एम० डैम्पो प्राइवेट लिमिटेड, सुरला माईन, गोआ की सुरला जल प्रदाय स्कीम के लिए 10,657 रुपए का सहायता-अनुदान।
5. मैसर्स गोगते मिनरल को महाराष्ट्र क्षेत्र में जल प्रदाय को पूरा करने के लिए एक कुएं पर लगे पंप और इंजन खरीदने के लिए 10,000 रुपए का सहायता-अनुदान।

उपर्युक्त के अतिरिक्त, उड़ीसा क्षेत्र में मैसर्स बोलानी ओर्स लिमिटेड और मैसर्स स्टंगा माइन्स की जल प्रदाय स्कीमें, जिनकी लागत क्रमशः 11,35,000/- रुपए और 2,34,000/- रुपए है, विचाराधीन थीं।

(iv) अवास सुविश एं :—विभिन्न क्षेत्रों में नई अवास स्कीम और कम लागत की अवास स्कीम के अन्तर्गत मकानों के सन्निर्माण का कार्य प्रगति पर था। सन्निर्माण की प्रगति निम्नलिखित थी :—

1. बिहार : बिहार में नई अवास स्कीम के अन्तर्गत 400 मकानों का सन्निर्माण पूरा हो चुका था और 100 मकानों का सन्निर्माण पूरा होने वाला था। कम लागत की अवास स्कीम के अन्तर्गत 30 मकान पूर्ण किए गए थे। नई अवास स्कीम के अन्तर्गत 176 और मकानों के सन्निर्माण की स्वीकृति भी जारी की गई थी।
2. मध्य प्रदेश : मध्य प्रदेश में बेलडिला क्षेत्र में तलाकार के 300 मकानों का सन्निर्माण पूर्ण किया गया था। 198, बी-2 प्रकार के मकानों तथा नई अवास स्कीम के अन्तर्गत 6 मकानों का सन्निर्माण भी हुआ। राजहारा क्षेत्र में कम लागत की अवास स्कीम के अन्तर्गत 1,000 मकानों के सन्निर्माण के लिए स्वीकृति दी गई

थी। बेलडिला क्षेत्र में बी-2 प्रकार के 100 मकानों के सन्निर्माण के लिए भी स्वीकृति दी गई थी।

3. मैसूर : नई अवास स्कीम के अन्तर्गत जिन 454 मकानों के सन्निर्माण की स्वीकृति दी गई थी, उन में से 160 मकानों को पूर्ण किया गया था। 79 मकानों का सन्निर्माण हो रहा था।
4. गोआ : गोआ में स्वीकृत किए गए 505 मकानों में से 497 नई अवास स्कीम के अन्तर्गत और 8 सहाय प्राप्त अवास स्कीम के अन्तर्गत 86, मकान नई अवास स्कीम के अन्तर्गत पूर्ण हो चुके हैं और 64 मकानों का सन्निर्माण हो रहा था।
5. उड़ीसा : 1968-69 से स्वीकृत 434 मकानों में से 150 मकान पूर्ण कर दिए गए थे और 249 मकान सन्निर्माण के विभिन्न प्रक्रमों पर थे।

(v) सहकारी भण्डार : उड़ीसा क्षेत्र में एक केन्द्रीय उपभोक्ता सहकारी भंडार तथा 3 प्राथमिक भंडार और बिहार क्षेत्र में एक केन्द्रीय उपभोक्ता सहकारी भंडार तथा 4 प्राथमिक भंडार कार्य कर रहे थे। गोआ में मैसर्स एमको गोआ प्राइवेट लिमिटेड की उपभोक्ता सहकारी सोसाइटी को 8,960/- रुपए उधार देने मंजूर किए गए थे।

(vi) लोह अयस्क खनियों और लोह अयस्क प्रसुविश स्कीम : उड़ीसा में चार लोह अयस्क खनियों/आश्रितों को इस स्कीम के अन्तर्गत वित्तीय प्रसुविश दी गई थी। गोआ में भी इस स्कीम के अन्तर्गत लोह अयस्क खनियों को 1,260 रुपए की वित्तीय सहायता दी गई थी।

5. केन्द्रीय सलाहकार बोर्ड के तीसरे अधिवेशन में निम्नलिखित महत्वपूर्ण विनिश्चय किए गए थे :—

- (i) बोर्ड ने अपने इस पूर्वतर विनिश्चय को दुहराया कि निधि को कल्याण सम्बन्धी सुविधायें प्रदान करने का काम अपने जिम्मे नहीं लेना चाहिए। जो कि स्पष्टतः राज्य सरकारों की जिम्मेदारी है, जैसे प्राथमिक शिक्षा।
- (ii) निधि को उपभोक्ता सहकारी सोसाइटियों में और अधिक धनराशि विनिहित नहीं करनी चाहिए। पहले दिए गए ऋणों की वसूली के लिए तथा साथ ही वह सुनिश्चित करने के लिए कि वर्तमान भंडार ठीक ढंग से काम कर रहे हैं; कदम उठाने चाहिए।

(iii) निधि की आय को विभिन्न कल्याण स्कीमों जैसे जल प्रदाय, अवास तथा स्वास्थ्य संबंधी,

सुविधाओं में इस प्रकार आंशिक किया जाना चाहिए ताकि विभिन्न सुविधाओं के असन्तुलित विकास को हटाया जा सके। अस्थायी तौर पर निम्न प्रकार से निधि को आंशिक करने का विवरण दिया गया:—

आवासन	40%
जल प्रदाय	20%
विकास सुविधायें	20%
अन्य सुविधायें	20%

राज्य स्तर की सलाहकार समिति को इस आंशिकता के प्रतिशत पर विचार करना था और अपने विचार सूचित करने थे।

भाग—2

वर्ष 1970-71 का लेखा-विवरण

	आय (रुपयों में)	व्यय (रुपयों में)
1—अप्रैल, 1970		
अवशेष	2,79,69,724 रुपए	
वर्ष दौरान आय	89,82,624 रुपए	
वर्ष के दौरान व्यय		60,78,606 रुपये (अनन्तिम)
31—मार्च, 1971 को		
इतिशेष	3,08,73,742 (अनन्तिम)	

भाग—3

वर्ष 1971-72 के लिए आय और व्यय के प्राक्कलन

	रुपए
प्राक्कलित आय	88,44,000
प्राक्कलित व्यय	99,33,000

[संख्या जैड-16016/6/71-एम-3]

सी० आर० नायर, अवर सचिव।

(Department of Labour and Employment)

New Delhi, the 10th April, 1972

S.O. 1017.—In pursuance of section 17 of the Industrial Disputes Act, 1947. (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Calcutta Port Commissioners and their workmen, which was received by the Central Government on the 29th March, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 50 OF 1971

PARTIES:

Employers in relation to the management of Calcutta Port Commissioners, Calcutta.

AND

Their workmen.

PRESENT:

Shri S. N. Bagchi—Presiding Officer.

APPEARANCES:

On behalf of Employers—Shri G. V. Karlekar, Labour Adviser and Industrial Relations Officer.

On behalf of Workmen—Sri P. Biswas, an Officer of the Union.

STATE: West Bengal

INDUSTRY: Port

AWARD

This is a reference for adjudication by this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947, in relation to a dispute existing between the management of the Calcutta Port Commissioners, Calcutta and their workmen in respect of the matters specified in the Schedule reading as:

“Whether the demand of the workmen for designating Sri Ashutosh Dev and Shri Bijoy Chandra Das of D. L. S. Workshop in the Calcutta Port Commissioners as Viceman Fitters is justified; if so, to what relief and from what date, are they entitled?”

The reference was received on 5th April, 1971 by this Tribunal and notices were issued.

2. On 7th May, 1971 the written statement of the workmen Ashutosh Dev and Bijoy Chandra Das represented by the union, being the Calcutta Port Commissioners Workers' Union, was filed. Workman No. 1 is Ashutosh Dev and workman No. 2 is Bijoy Chandra Das and would be referred as workman No. 1 and workman No. 2 in this award.

3. Ashutosh Dey, workman No. 1, was appointed on his own application for the post of a Fitter in the services of the Port Commissioners, hereinafter called the Opposite Party on 4th May, 1944 at the D. L. S. workshop where he has been working. While being appointed Ashu, workman No. 1, was given to understand that he would be appointed as a Viceman Fitter if found fit by test. He was tested for the post of a Viceman Fitter on or about 2nd May, 1944. He passed the test of a Viceman fitter and was found medically fit on 3rd May, 1944. He was appointed in the services of the Opposite party on the 4th May, 1944 and was assigned to do the duty of a Viceman fitter without any appointment letter. He began to work as a Viceman fitter and has been working till now as a Viceman fitter. The scale of pay of the Rivetman and the Viceman fitter was then the same. As he got no appointment letter, he did not know what was the designation of the post to which he was appointed. In March, 1945 he was confirmed in service, but the post to which he was confirmed was not made known to him nor any confirmation letter was issued to him. The workman Ashu was of the impression that the designation of his post has always been Viceman fitter appropriate to the nature of the work done by him. On 15th June, 1945, while proceeding on leave, he was given a Service-book containing all particulars of his service and other records when he came to know that he was wrongly

designated as a Rivetman instead of a Viceman fitter, a job in which he was engaged and he had been doing in spite of his representations to the authorities for designating him as a Viceman fitter, no favourable response was obtained by workman No. 1, Ashu. But in view of the scales of pay of the Rivetman and viceman fitter being the same the workman No. 1 was not financially a loser. So, he deferred proper action at the right moment. On 28th June, 1959, workman No. 1 Ashu submitted a representation to the Chief Engineer, Calcutta Port Commissioners for changing the designation of his post as Rivetman, since he was working as a viceman in his section as there was no work of a Rivetman in his section. He also represented to the Chief Engineer that he was in the grade of Rs. 40-60 but with the upgrading of the job he should have been placed in the revised grade of Rs. 60-75. He did not get any remedy. The official designation of Rivetman was given to workman No. 1 Ashu, though he was not working as a Rivetman and has all along been doing the job of a Viceman fitter and sometimes higher jobs of a Leading hand and a Junior Supervisor. Again he made a representation to the Chief Engineer on 19th May, 1958 for changing his designation and designating him as Viceman fitter. But there was no favourable reply to it. In his representations dated 15th May, 1956 and 30th September, 1958, the workman No. 1, Ashu, complained that he had been wrongly designated as rivetman wherefor he was financially suffering being in the grade scale of pay Rs. 35-1-50. In this representation he objected to the promotion of two knalasis directly to the post of a skilled grade of a fitter while he Rivetman—a semi-skilled worker as he was described, was left out. In 1956-58 the scales of pay of Rivetman and Viceman fitter differed, and the grade and the scale of pay of a fitter i.e. the job done by the workman No. 1 became higher than that of a Rivetman as a result of revision of pay by the Tribunal whereof the workman No. 1, Ashu, was affected. On 4th August, 1958 the workman No. 1 having failed to receive any redress of his grievances submitted representation to the Chairman, Port Commissioners. He got no remedy in his favour. Thereafter Ashu workman No. 1 approached the Union. The union took up the case with the Chief Engineer. Union represented before the Chief Engineer that Ashu should be designated as a fitter. The matter went on for a number of years but to no effect in favour of workman No. 1. The Union thereafter raised an industrial dispute in accordance with the case of workman No. 1 in 1964, which was referred to the Regional Labour Commissioner, Central, Calcutta. After a protracted negotiation no settlement could be arrived at and the conciliation proceedings closed in 1965 with observations that the case was fit for adjudication by a Labour Court. No failure report was submitted to the appropriate authority for a reference to the Industrial Tribunal for adjudication. The Union raised a fresh dispute over the matter in 1966 and a fresh conciliation proceeding started in the matter. The proceedings in conciliation went on from 1966 to 1967 when workman No. 2 Bijoy Das's case cropped up.

4. On 25th May, 1967 workman No. 2 Bijoy Das was posted as a Rivetman to do the job of a Viceman fitter and he submitted a representation to the Chief Engineer of the Opposite party on 18th October, 1967, claiming that as he was working as a Viceman fitter but was wrongly designated as a Rivetman, he should be properly designated as Viceman fitter. Workman No. 2 Bijoy made several representations to the officers of the Opposite party but without any effect. Having failed to receive any redress from the Opposite party the workman No. 2 Bijoy approached the Union. The union also raised an industrial dispute over the issue. The case of Bijoy lingered with the conciliation authorities like that of workman No. 1 Ashu. Both the cases of workman No. 1 and workman No. 2, Ashu and Bijoy, being of the same nature

the union took up their case together in 1970 and made representations to the Labour Department of the Government of India. The Conciliation authorities having been convinced that the two workmen were essentially vicemen fitters but are wrongly designated as Rivetmen submitted a report to the Regional Labour Commissioner, Calcutta. Thereafter the Assistant Labour Commissioner (C), Calcutta had a separate meeting as a last effort to bring about a settlement in the matter but failed whereupon he submitted a report to the Government. The Government thereafter referred the dispute to this Tribunal for adjudication under Section 10 of the Industrial Disputes Act. The Union asserts that workman No. 1 doing the job of a Viceman fitter since his appointment in May 1944 has been illegally and unjustly designated as a Rivetman and has been paid lower remuneration, and for years has been a truck up at Rs. 15/- per month, thereby causing him a heavy financial loss and humiliation in status. Workman No. 2, Bijoy though suffered no financial loss was likely to suffer so in no time. So, the union states that if workman No. 1 Ashu was properly and correctly designated as Viceman fitter grade II of the time of his appointment in 1944 he would become a fitter grade I in the scale of pay of Rs. 60-5/2-75 in 1953 and in the scale of pay of Rs. 75-3-105 from 1st October, 1957 as a result of revision of the grade and scales of pay by the Classification and Categorisation Committee and in the scale of pay Rs. 125-180, from 1st October, 1959 the date on which the scales of pay of Second Pay Commission has been given effect to. So, the Union for the workmen 1 and 2 prayed as follows.

- (i) Workmen No. 1 and 2 should be designated as Viceman fitter.
- (ii) Workman No. 1 is entitled to be designated as Viceman fitter with effect from 4th May, 1944 and workman No. 2 with effect from 25th May, 1967 with all consequential benefits thereof.
- (iii) The workman No. 1 is entitled to all benefits of his redesignation by way of refixation in the scales of pay of Viceman fitter grade II with effect from the date of his appointment and to Viceman fitter grade I i.e. Rs. 60-75 from 1953 and accordingly revised in the C.C.C. scales of pay Rs. 75-105 with effect from 1st July, 1957 that is the date from which it was given effect to and its corresponding Second Pay Commission scales of pay Rs. 125-155 with effect from 1st October, 1959, the date on which it came into effect and in the Central Wage Board scales of pay with effect from 1st January, 1969, with all the arrears of differences of pay and allowance.
- (iv) Workman No. 2 is entitled to the relief of refixation in the scales of pay of a Viceman fitter with effect from 25th July, 1967 and the difference of pay and allowance.

The workman no. 1 since the date of his appointment never did the job of a Rivetman as he was not required to do the work of a Rivetman or a Rivetter in the D.L.S. Workshop as there was no riveting work done in the D.L.S. workshop. The workman no. 2 an unskilled workman while working with Viceman fitter, in course of his work, learnt the work of a Viceman fitter. Accordingly he was due to be adjusted against the post of a Viceman fitter. But the workman No. 2 was posted to do the job of a Viceman fitter with effect from 25th May, 1967 but he was never required to work nor worked as a Rivetman. Further, the union representing the workmen no. 1 and 2 prayed that each of the workman should get difference of salary, dearness allowance, H.R.A. and C.A. as a result of redesignation and refixation in the scales of pay in the matter already stated and that the workman

no. 2 is entitled to be redesignated as a Viceman fitter with effect from 25th May, 1967, and re-fix of the scales of pay 110-131-4-155-180 with all other benefits. The Union representing the workmen prays that the award should be made in the light of prayers made by the union on behalf of the two workmen.

5. On behalf of the employers in relation to the management of Calcutta Port Commissioners, i.e., the Commissioners for the Port of Calcutta a body-corporate constituted under the Calcutta Port Act, 1890, (Bengal Act, 3, 1890), filed a statement in response to the notice referred to above. In paragraph 3 of the statement, the Commissioners of the Port of Calcutta, hereafter to be mentioned as opposite party, stated that there is no establishment known as D.L.S. workshop under the Opposite party as referred to in the Schedule of the reference. There is an establishment under a supervisor in the establishment of the Senior Executive Engineer, Kidderpore Dock, under the Chief Engineer's department. In the establishment there are a number of posts including the two post of Rivetman. These two posts are occupied by the two workmen Sri Ashutosh Dey and Sri Bijoy Chandra Das. In paragraph 4 of the statement the Opposite party states that the Ministry of Labour, Government of India, by a notification No. LR.3(82)/54 dated 22th June, 1955 had referred a number of issues including the issue regarding the classification of jobs of engineering workshop staff both under the mechanical engineer and the Chief engineer and fixation of their wages, to the Central Government Industrial Tribunal at Calcutta being Reference No. 1 of 1956. The said Tribunal's award was published in the Gazette of India Extraordinary, Part II, Sec. 3 dated 30th January, 1958. The relative portion of paragraph 44 of the award of the Tribunal says that the grades of the engineering jobs of the Chief engineer's department have been revised to bring the grades of different jobs as far as possible in a line with those of comparable jobs in the Chief Mechanical Engineer's department. The grades for the skilled job shall not be less than Rs. 40-2-60 and the grades for the semi-skilled job generally Rs. 35-1-50. The Tribunal gave a list of agreed Classification of workmen in Chief Engineer's department of the Calcutta Port in Annexure II of the award, dealing in Annexure IV of the award grades and scales of pay for different categories of jobs in the department of Chief Engineer. Though the posts designated as Rivetman did not feature in the agreed list of classification in Annexure II of the award those featured in Annexure IV of the award wherein the Tribunal gave a scale of pay of Rs. 35-1-50 and classified it as skilled although in paragraph 44 of the award the Tribunal awarded the grade for the skilled job that would not be less than 40-2-60. During the pendency of the proceedings in that Reference No. 1 of 1956 before the Industrial Tribunal of the Central Government, the Government of India appointed Sri P. C. Choudhury, I.C.S. as Special Officer to undertake an enquiry of the various demands of Labour at major ports. One of the items of enquiry was in respect of disparities and anomalies in the scales of pay and allowances of Class III and class IV employees of the major ports and to recommend for rationalisation of the pay structure of various categories in the light of recommendations made by the Central Government in 1947 for the Central Government employees of comparable status. Choudhury's report was submitted on 1st September, 1957, to the Government of India. After a discussion between the Government of India and the Labour Unions there was an agreement between the Government and the Unions whereupon the Government decided to appoint a Committee to undertake the work of Classification and Categorisation of Class III and IV posts in the major ports of Bombay, Calcutta, Madras, Cochin, Kandla, and Vizagapatnam. By a resolution No. 23-PLA(91)158 dated 23rd August, 1958 the Ministry of Transport and Communication (Department of Transport, Government of India) appointed the Classification and Categorisation Com-

mittee, shortly speaking C.C.C., submitted its report to the Government in the Ministry of Transport and Communication on 28th May, 1961. The Government resolution at paragraph 7 (u) state that the revised scales recommended by the Committee shall come into force from 1st October, 1957. The implementation of the Tribunal award in Reference No. 1 of 1956 and the report of the Classification and Categorisation Committee, caused over-lapping of the two. The Classification and categorisation Committee in paragraphs 20, 27 and 28 made certain recommendations that are relevant to the issue under reference in this proceeding. In paragraph 8 of the statement the paragraphs 20, 27 and 28 of the C. C. Committee's report have been quoted verbatim. After quoting those paragraphs, it is stated by the Opposite party that the said Committee at item 76A and Schedule II Calcutta Port put the Rivetman in the Chief Engineer's department in the scale of pay of Rs. 60-5/2-75 and did not give them the scale of artisan in the scheme of "skilled" in paragraph 9 of the statement, the Opposite party fully relies on the two resolutions of the Government of India stated in paragraph 7 of the statement, and on the Report of the Classification and Categorisation Committee mentioned in paragraph 8 of the statement. In paragraph 10 of the statement, the Opposite party states, "The Commissioners further state that there is no such designation as Viceman Fitter in the units, section and department in which Sri Ashutosh Dey and Sri Bijoy Chandra Das are at present working, nor can any post with this designation can be created for the concerned workmen considering the duties performed by them viz., fitting and small rivetting work". In paragraph 11 of the statement the Opposite party states "In the circumstances, the Commissioners submit that Ashutosh Dey and Bijoy Chandra Das, the two Rivetman could not be put in the scheme of skilled scale and the Hon'ble tribunal would be pleased to answer that the demand of the two workmen concerned to designate them as Viceman Fitter is neither justified nor they are entitled to any relief.

6. When the reference came up for hearing, the two workmen represented by the Union through its Officer Sri P. Biswas opened the workmen's case. The Opposite party, Commissioners for the Port of Calcutta, opened its case through Sri G. V. Karlekar, the Opposite party's Labour Adviser and Labour Relations Officer. On the submissions made by the respective party's representatives before me in regard to their respective cases, the following points, incidental to the main point under reference were settled decision in the award:

- (i) Is there any post of Viceman Fitter in the unit/section/department in the establishment of the Departmental Labour Supervisor under the Chief Engineer's Department of the Commissioners for the Port of Calcutta in which Sri Ashutosh Dey and Sri Bijoy Chandra Das, the two workmen disputants have been working at present since their respective dates of appointment?
- (ii) What has been the nature of duties performed by each of the workmen disputants in the department of Labour Supervisor from the date of their respective appointments in such department?
- (iii) Having regard to the nature of work performed by each of them from the date of their respective appointments, 4th May, 1944 and 25th May, 1967, respectively, in what category each of the workmen Ashutosh Dey and Bijoy Chandra Das is to be placed in accordance with the report of the Classification and Categorisation Committee of the year 1961 with retrospective effect from 1st October, 1957, the Report of the Second Pay Commission, 1959 with effect from 1st September, 1969 and the recommendations of

the Central Wage Board for Port and Dock Workers, 1970 with retrospective effect from 1st January, 1969.

- (iv) Has each of the workman been since the date of their respective appointments, mentioned in issue No. (iii) above been placed in the correct category and have been paid wages and allowance in their respective categories under the Report of the Classification and Categorisation, Second Pay Commission Report and the recommendations of the Central Wage Board for Port and Dock industry? If not, can each of them claim revision of their wages and allowances in the scales as claimed and difference if any of wages and other allowances? If so, for which period?
- (v) If the respective workman has been correctly placed in the correct categories under the Classification and Categorisation Committee report, Second Pay Commission Report and under the Recommendations of the Central Wage Board for Port and Dock Workers, can they have any grievance as raised in the dispute under reference?
- (vi) Whether the demand of the workmen for designating Sri Ashutosh Dey and Sri Bijoy Chandra Das of D.L.S. Workshop in the Calcutta Port Commissioners as Vicemen Fitters is justified; if so, to what relief and from what date, are they entitled?"

DECISION

7. The workmen Ashutosh Dey and Bijoy Das examined themselves and were cross-examined. For the management Jagdish Chandra Bose, Labour Supervisor was examined and cross-examined. Documents were exhibited as produced by both the sides. Arguments of both the parties were concluded on 3rd March, 1972.

8. Sri Biswas for the workmen, while arguing the case for the workmen stated that the workmen were not bound by the Classification and Categorisation Committee's report nor were bound by the award of the Das Gupta Tribunal in Reference No. 1 of 1956, since there has been lot of changes in the scales of pay and other particulars relating to the two workmen concerned. Now, I take up the points for decision.

9. Points No. (i) and (vi) can be conveniently dealt with together. The point (vi) is what is appearing in the Schedule to the Reference, and point (i) as incidental to and arising out of the main point for adjudication in the reference. Before deciding those two points, I should clear the objection raised by Sri Biswas for the workmen while submitting that the two workmen are not bound either by Das Gupta award or by C.C. Committee's report. By a notification of the Government of India (Ministry of Labour) No. L.R.3(82)/54 dated 22nd June, 1955 an industrial dispute between the employers in relation to the Port Commissioners, Calcutta and their workmen comprising 11 items were referred for adjudication before the Dhanbad Tribunal. Item 1 of the list was amended by Notification No. LR.3(82)/54 dated 3rd August, 1955 reading as, "Classification of jobs of Engineering staff, both under the Chief Mechanical Engineer and the Chief Engineer and fixation of their wages". That Tribunal was later on presided by Sri A. Das Gupta who heard the reference and gave the award in the reference case No. 1 of 1956 on 30th December, 1957. That award hereinafter called Das Gupta award, was published in the Gazette of India, Extraordinary Part II, Section 3 on 30th January, 1958. When the adjudication proceedings in Reference case No. 1 of 1956 were proceeding before Das Gupta Tribunal, Government of India in response to the claims of the Labour Unions, in November, 1956 appointed Sri P. C. Choudhury, I.C.S. as Officer on Special Duty to undertake an enquiry into the scales of pay and allowances of class III and IV employees of major

ports and to make recommendations for rationalisation of the pay structure of various categories in the light of the recommendations made by the Central Pay Commission 1947 for Central Government employees of comparable status. Sri Choudhury found that to bring a substantial establishment on board to a rationalised system of pay and allowance and particularly so where earlier methods of remuneration had evolved for different historical reasons or legal considerations or had been adopted in ad hoc manner over a period of several decades is a matter of exceptional difficulty. The Government of India, therefore, in agreement with the unions appointed a Committee to undertake the work of Classification and Categorisation of class III and IV posts in the six major ports of Bombay, Calcutta, Madras, Cochin, Kandla and Vizagapatnam, to fit into one or the other of the scales of pay given in the Schedule attached to the Government resolution No. 23-PLA(91)/58 dated 23rd August, 1958 published in the Gazette of India, Extraordinary, Part I, Section 1 No. 23 dated 20th August, 1958. The Committee popularly known as C.C.C., was under the Chairmanship of Jeejeebhoy, two other independent members, one representative of each Port Commissioners, 3 representatives of Labour. The Committee was required to classify and categorise over 3,200 different categories after examining the duties and responsibilities of each post and the Committee's decision covered three quarters of a lakh of Port employees. The Appendix C to the Report gives the number of posts in each port department wise as on 31st March, 1961. The aim to be achieved by the Committee by its recommendations was a rationalised wage structure for the ports in the light of the recommendations of the First Pay Commission for comparable posts in the Central Government (see pages, 1 and 2 of C.C.C. report). The notification No. 23-PLA(91)/58 dated 23rd August 1958 in Appendix A to the C.C.C. Report in paragraph 4 says, "The Committee will consult the port authorities and representatives of the labour unions, independent members. The Committee will also be free to co-opt in each Port experts or such other as they may consider necessary for facilitating its task. The recommendations of the Committee shall be final and binding on the port authorities as well as the Labour". The copy of the resolution was communicated to the interests concerned and was published in the Gazette of India for general information. The labour representatives in the Committee, Appendix B to the Report, shows were (1) Shri G. H. Kale, President All India Port and Dock Workers Federation, Bombay, (2) Shri Makhan Chatterjee, General Secretary of all India Port and Dock Workers Federation, Calcutta, (3) Shri Kali Mukherjee, Vice-President, Indian National Dock Workers' Federation, Calcutta. The C. C. C.'s report was signed on 28th May, 1961. Paragraph 44 of the report says that the scales of pay fixed by the Committee for the different posts in the six major ports shows in Schedule 1 to IV of the Report shall have retrospective effect from 1st October, 1957. According to the decision of the Government of India stated in paragraph 7(ii) of the Ministry of Transport and Communication (Department of Transport), Resolution No. 23-PLA(87)/58 dated 20th July, 1958. The Das Gupta award would show at page 297 of the Gazette publication referred to above that in the order of Reference No. 1 of 1956 nothing had been stated as to how and by whom the workmen disputants in the reference were represented but the copies of the reference were forwarded to four unions of which one was Calcutta Port Commissioners Workers Union. Sri Rajani Mukherjee, Sri A. L. Roy, assisted by Monoranjan Dey, who were members of the Calcutta Port Commissioners Workers Union appeared before that Tribunal. Before this Tribunal, the Calcutta Port Commissioners Workers Union authorised Sri Provat Biswas and Sri A. L. Roy, both officers of the Union in the capacity of advisers to represent the two workmen in this proceeding. The Calcutta Port Commissioners Workers Union,

therefore, represented all its workmen members before Das Gupta Tribunal. The workman No. 1 Asnu who entered the services of the Port Commissioners on 4th May, 1944 and the workman No. 2 Bijoy Ch. Das who became rivetman on 25th May, 1907 as the statement of case for the workmen before this Tribunal shows, approached the Port Commissioners Workers Union which took up their grievances and raised the dispute which is now under reference for adjudication. So, it is needless to say that Das Gupta award in Reference 1 of 1956 which was made on 30th December, 1957 and was published on 30th January, 1958 is not otherwise barred by law, is binding on both the workmen Asnu and Bijoy, now disputants before me represented by the Port Commissioners Workers Union. Thus, Das Gupta award at page 296 says that it would take effect except where specific direction was given to the contrary on and from the date when the award become enforceable under the law that means one month after the expiry of 28th February 1958, from 1st March, 1958.

10. The C.C. Committee's report, as I have already observed, in regard to the scales of pay fixed for six major ports, and shown in Schedule I of the report, took effect from 1st October, 1957, i.e. long before the scales of pay, etc. fixed by Das Gupta award had taken effect. It would be profitable now to read paragraphs 27 and 28 relating to "skilled artisans" of C.C. report at page 6. The Committee decided that the skilled artisans of ports (including Calcutta Port) should be given three scales, viz., (i) 60-5/2-75, (ii) 75-3-105, (iii) 100-130. Concomitant with such scales, the Committee provided that towards the end of 60-5/2-75 scale and also towards the end of 75-3-105 scale there shall be trade tests before the skilled workmen concerned, with approved service, are allowed to proceed to the next higher scale. The Committee also made it clear that nobody with approved service who had passed the trade test shall be held up in either of the two grades for want of vacancy and that the Port administration concerned shall take appropriate steps to ensure such end within the totality of skilled posts. In paragraph 28 of the CCC Report, page 6, the Committee in regard to "skilled artisans" of Calcutta port decided as follows:

- (i) Those employes in the Rs. 40—60 scale now prevailing in Calcutta who are holding posts in the semi-skilled grade will remain in that scale; but those who are now in the Rs. 40—60 scale and are holding posts in the existing lowest skilled category shall be fixed in the scale of Rs. 60-5/2-75.
- (ii) Those Grade I artisans of Calcutta, who are now in the scale of Rs. 60-75, shall be fixed in the scale of Rs. 75-3-105.
- (iii) Grade 'A' workers shall be regarded as highly skilled and placed in the scale of Rs. 80-6-120-EB-8-160.

This categorisation and fitment into the scales of pay of skilled artisans in Calcutta Port were to take effect from 1st October, 1957 long before the Das Gupta award was published on 30th January, 1958. Das Gupta award at page 298, 299-Annexure II, gives a list of 'A' grade classification of workmen of the Chief Engineer's department of the Calcutta Port. The two workmen now before me have been serving since their respective dates of appointment to the post of Rivetmen, in case of Bijoy however in the post of a Khalasi before becoming a Rivetman under the Chief Engineer's department of the Calcutta Port Commissioners. The agreed list item 8 reads as Rivetterman but not rivetman, existing pay 37-1-44, proposed classification skilled. Fitter item 7 existing pay 37-1-44. Viceman-item 9-existing pay 49-1-54. Viceman item 10 existing pay 39-3-44 proposed classification skilled. The remark column shows that according to Port Commissioners skilled means skilled grade 'A', Grade I, Grade II but the unions did not agree into classification of grade A. Item 25-Viceman-exist-

ing pay 60-2-75-skilled. Item 46-Fitter-existing pay 44-1-54 skilled. Item 49-Fitter existing pay 40-2-60-skilled item 52-Rivetter existing pay 30-3-40 skilled. Item 54-Fitter existing pay 60-2-75 skilled. Item 55-Fitter existing pay 41-3-44 skilled. There is nothing in the materials on record to equate rivetman with a rivetter. Appendix IV of Das Gupta award, page 345, item 10-Fitter existing grades 37-1-44, 39-3-44, 41-3-44. Revised grade 40-2-60 skilled. Annexure IV relates to grades and scales awarded by Das Gupta Tribunal for different categories of Engineering jobs in the department of the Chief Engineer. Item 20-Riveters existing pay 36-3-40 and 39-1-44 Revised grade 40-2-60 skilled. Item 21-rivetman existing pay 31-1-44, 32-3-30 revised grade 35-1-50 skilled. Item 32-Viceman existing grades, 39-3-44, 39-3-49-49-1-54 revised Grade 40-2-60 skilled, Das Gupta award in Appendix IV, page 343-44 while considering the designation of different categories of engineering jobs in the Department of the Chief Engineer and prescribing the grades and scales of pay for different categories of engineering jobs in the department of Chief Engineer classified workers as skilled and semi-skilled. The C.C. Committee's report-paragraph 27, classified artisans, as skilled, semi-skilled, (para 31) and highly skilled (para 32), (pages 6-7 of the Report). But Das Gupta award classified different categories of engineering jobs for skilled and semi-skilled workers laying down their grades and scales of pay respectively, vide Annexure IV of the award, page 343-44. Das Gupta award did not classify workers into three categories as the C.C. Committee did. Annexure IV of the Das Gupta award would show that Fitter No. 10, rivetman No. 27 and Viceman No. 32 were each classified as skilled and the fitter was given the grade scale of pay Rs. 40—60 and Viceman Rs. 40—60 while rivetman Rs. 35—1—50. In this connection a reference should be made to page 254 and 255 of Das Gupta award, paragraph 15. There was the Central Pay Commissions recommendations following which the workers of the Workshop under the Calcutta Port went on strike on and from 12th September, 1953. Strike was withdrawn on and from 1st October 1953 on the Commissioners' assuring the workers sympathetic consideration of the grievances and a settlement was arrived at. The Calcutta Port Commissioners workers union mentioned this in their written statement before Das Gupta award. A Committee in terms of the agreement between Port Commissioners and the Workers union consisting of three men was appointed. There was a controversy as to whether the Committee should deal with the pay scales of workers and recommended a revision and refixation only of Chief Mechanical Engineer's department. Before the Committee was appointed the Port Commissioners in a meeting on 9th May, 1949 classified class III and class IV workers and placed them in as many as 24 grades. Such classification and grading was not found satisfactory by the 3 men Committee. That Committee recommended in place of existing semi-skilled grade of 35-1-50 a grade of Rs. 40-60 and in place of skilled grade Rs. 40-2-60 a grade of Rs. 60-5/2-75 and Rs. 75-3-90-EB-3-105. Rs. 90-128, Rs. 128-5-170, as regards unskilled Rs. 30-3-35. That recommendation of 3 men Committee was clearly a classification of workers of Workshop under Chief Mechanical engineer. The Report of the 3 men Committee was reviewed by a Committee of Engineers appointed by the Commissioners of the Port of Calcutta. The Committee of Engineers confined its investigation to the department of Chief Mechanical Engineer. Before Das Gupta Tribunal the Committee's report was assessed as unscientific. In paragraph 22, page 257 of Das Gupta award it is stated, "I am glad to say that the parties were ultimately able to come to a partial agreement about classification of the maintenance staff in both the departments of Chief Mechanical Engineer and the Chief Engineer. Annexure II-List of categories of

jobs in respect of which the parties agree and Annexure IIA is the list of jobs in respect of which the parties could not agree". In paragraph 44, page 264, Das Gupta award deals with Chief Engineer's department. It observes *inter-alia*, "I have revised the grades of the Engineering jobs of the Chief Engineer's department to bring the grades of different jobs, as far as possible, in line with those of the comparable jobs in the Chief Mechanical Engineer's Department. The grades for skilled jobs shall not be less than 40-60 and the grades for semi-skilled job general Rs. 35-1-50". But while placing the Rivetmen against item 27 in the revised grade, Annexure IV, at page 344 Das Gupta award fixed him in Rs. 35-1-50 and classified the Rivetman as skilled. In case of Viceman and Fitter item 32 and 10 respectively Annexure IV, page 343-44, of Das Gupta award, the grade is 40-2-60 and they are also skilled. The Annexure IV is, therefore, inconsistent with paragraph 44, page 264 of Das Gupta award where it says, "grades for the skilled job shall not be less than 40-2-60 and the grades for the semi-skilled job general 35-1-50". According to Das Gupta award, Annexure IV, page 343-44, if the Rivetman is doing a skilled job such as Viceman and the Fitter do, being skilled, the Rivetman should have been given, in view of the Tribunal's findings in paragraph 44 page 264 of the award the scale of Rs. 40-2-60. Annexure IV relating to Rivetman, item 27, page 344 of Das Gupta award, being inconsistent as regards scale of pay of a Rivetman, with his findings in paragraph 44 of page 264 of the award, the findings in the body of the award shall prevail over the inconsistency as aforesaid in the Annexure IV. Shri Biswas for the union in a written note submitted before this Tribunal on 3rd March, 1972 with copy to opposite party stated that from 4th May, 1944 to 1952 Ashu, workman No. 1, got the scale of pay at Rs. 35-50 and from 1953 to 30th Sept., he got the scale of pay at Rs. 40-60. He got the scale of pay for the period aforesaid in the scale 40-60, consistent with the findings of Das Gupta in paragraph 44 of its award although in Annexure IV an inconsistency peeped in regarding the scale of pay of the Rivetman in the manner and to the extent I have already pointed out. It is, however, clear that before Das Gupta award was published, C.C.C. Report has taken effect from Oct. 1957 retrospectively. So, as a skilled artisan in the scale of pay as prescribed by the Das Gupta award, paragraph 44 relevant portion of which I have quoted the workman No. 1 Ashu was fitted in the scale of 40-2-60 during the period from 1953 to 30th September, 1957 in view of his own statement in writing submitted by Shri Biswas for the union. The three men Committee's report lost all its noteworthiness before Das Gupta Tribunal. The C. C. Committee's report was submitted to the Government of India on 28th May, 1961 but as regards implementation of the scales of pay fixed by the Committee it had retrospective effect from 1st October, 1957. Upto 30th September, 1957 as a skilled artisan the workman No. 1 Ashu got the scale of Rs. 40-60 although Das Gupta award had not even then been published which however, was published on 30th January, 1958. Three men Committee's report and Committee of Engineer's report had been excluded by the parties before the Das Gupta Tribunal (see page 254 to 257, para 15 to 22 Das Gupta award). What I find is that Das Gupta award in paragraph 44 of the awarded a scale of pay for skilled workers at the rate of 40-2-60 which has a strange coincidence with the statement in writing submitted by Shri Biswas for the union on behalf of the workmen Nos. 1 and 2 before this tribunal which shows, that during that period from 1953 to 30th September, 1957 workman No. 1 Ashu undeniably got a scale of pay being that of a skilled worker at Rs. 40-60. I have thus cleared off the obstacle set up by Shri Biswas as against Das Gupta award. If now we refer to paragraph 27 and 28, page 8 of C.C. Committee's report the position would be quite clear. On 1st October, 1957 workman No. 1, Ashu, being he

Rivetman or a Viceman or a Fitter or any other job holder was a skilled artisan in the grade of Rs. 40-60. Das Gupta award though came into force on 1st March, 1958 found in the Annexure II of agreed list, Fitter, Rivetman, Viceman as skilled artisans or workers but it is a mystery as to whether a rivetman is the same as a rivetter or a riveterman. The mystery was not solved by Shri Biswas even before me. The Annexure II, the agreed list, between the Port Commissioners and the Unions was filed on 2nd September, 1957 i.e. by Calcutta Port Commissioners Workers' and other three unions, page 209 Das Gupta award. So, in the Chief Engineer's Department of the Port Commissioners, the Rivetman item 8-Annexure II and Rivetter item 43, were classed as skilled but the Rivetter attendant item 2-Annexure II of Das Gupta award was shown as "semi-skilled". But Ashu, workman No. 1, was never a rivetter attendant according to both parties before me. I have already pointed out that Das Gupta award was not in force till before 1st of March, 1958. So, in October, 1957 the Viceman was not in the grade of 40-2-60, not even a fitter, not to speak of a Rivetman, (vide Annexure IV, page 343-344 Das Gupta award). The moot point is what was the scale of pay of skilled artisans within grade of Rs. 40-2-60 and holding posts in the existing lowest skilled category on 1st October, 1957. (See para 27 and 28 of C.C.C. Report, page 6-7). Das Gupta award was not in force on 1st October 1957. The agreed list Annexure II came before Das Gupta Tribunal on 2nd September 1957. Annexure IV and Annexure II of Das Gupta award had not seen the light of the day till before 30th January, 1958 when the award was published in the gazette. So, before 30th January, 1958 what was the scale of pay of skilled artisans and what posts in the existing lowest skilled category were being then held by them in the Chief Engineer's department in the Port of Calcutta? On 1st October, 1957 effect took place of C.C. Committee's report dated 28th May 1961. Das Gupta award and scale as in Annexure IV, page 343-44 of the award was not published on 1st October, 1957. But on 2nd September, 1957 the Port Commissioners and the unions including the present union representing the two workmen before me, in the list filed on 2nd September, 1957 before Das Gupta Tribunal agreed that the Viceman, a Fitter and a Rivetter, assuming that riveter in 38-1/2-40 scale is synonymous with rivetman which would however be imaginary were skilled workers. As a skilled worker, though Das Gupta award did not come into force till 1st March, 1958, workman No. 1, a rivetman, during the period from 1953 to 30th September, 1957 indisputably drew pay in the scale of Rs. 40-2-60 such as the Viceman and the Fitter drew in that scale. So, consistent with para 27 and 28 of the C.C.C. report, workman No. 1, Ashu, was fixed in the scale of Rs. 60-5/2-75. The workman No. 1 admits in the statement filed by Shri Biswas for the union before this Tribunal on 3rd March, 1972 that it got the scale as recommended by C.C.C. report being Rs. 60-5/2-75 on and from 1st October, 1957 in view of the recommendations of the Committee at paragraphs 28, page 6 of the Report. Annexure IV of Das Gupta award as far as grades and scales of pay awarded by Das Gupta in Reference No. 1 of 1958 could not take effect, in view of the acceptance of the recommendations regarding scale of pay and fixation thereof of skilled artisans effective on and from 1st October, 1957, as recommended by the C.C.C. in its report and implemented by the Port Commissioners and accepted by the workman Ashu and the Union to which he belongs. Ashu got the scale of Rs. 60-5/2-75 with effect from 1st October, 1957 and continued in that scale of pay upto 30-6-59. Das Gupta award so far as it relates to grades and scales of pay have laid down different categories of jobs and designations of the holders of such jobs in the Chief Engineer Department.

ment, of the Port Commissioners but it could not take effect in view of the agreement reached amongst the Government, all Port Commissioners and the unions, while setting up thereunder the C.C. Committee and acceptance and implementation of such Committee's recommendations as in the report regarding the workmen of all the major ports in India so far as their classification, categorisation and scales of pay are concerned. Then came the Second Pay Commission's report with the scales of pay. The Categorisation Committee's report, paragraph 27, page 6, created three scales of skilled artisans Rs. 60-5/2-75, Rs. 75-3-105 and Rs. 100-5-130. A skilled artisan starting from the scale of Rs. 60-5/2-75 with approved service must be allowed to proceed to the next higher scale subject to his passing the trade test; in other words, a skilled artisan in the grade 60-5/2-75 towards the end of that scale shall have to pass a trade test and shall get, if his service is approved, and passes the trade test, the scale of pay of Rs. 75-3-105, even though there is no vacancy in a post to which the scale 75-3-105 may be attached. Again, towards the end of the scale of Rs. 75-3-105 the skilled artisan with approved service shall have to pass a trade test. If he passes, the trade test and has approved service record he will automatically go to the scale of Rs. 105-5-130 irrespective of whether there is vacancy in a post to which that scale of pay may be attached. So, for skilled artisan the Committee granted three graduated scales of pay and such scales of pay are not attached to any post with a specific job-nomenclature therefore. The C.C.C. Report first classified three grades. Skilled semi-skilled and highly skilled. This must be borne in mind. On 1st October, 1957 if a skilled artisan was within the grade of Rs. 40-60 he would automatically be fixed in the scale of Rs. 60-5/2-75 in view of paragraph 28 (i) of C.C.C. Report so far as Calcutta Port is concerned (vide C.C.C. Report page 6). Next two scales of pay for a skilled artisan would be available subject to his service being approved by the authorities and the passing of a trade test irrespective of whether there is vacancy in the post with a specific job nomenclature to which the other two higher scales may be attached. So, promotion from the first scale of pay to the second scale and from second scale to the third scale for a skilled artisan would not depend on any vacancy existing in a post with a specific job-nomenclature to which any of such two higher scales of pay may be attached, but would depend on the skilled artisan's approved service and his passing of the trade tests. From the first scale to the second scale and from the second scale to the third scale. Now, it must be remembered that the recommendations in paragraph 27 and 28, page 6 of the C.C.C. Report, as I have already observed in case of Das Gupta award, must prevail even if there is any inconsistency between the contents of paragraph 27 and 28 and those in any Annexure to such report. So workman No. 1 in view of the recommendations of C.C.C. report paragraphs 27 and 28, got the scale of Rs. 60-5/2-75 for the period from 1st October 1957 to 30th June, 1959. Now, when workman No. 1, a skilled artisan was in the scale of pay of Rs. 60-5/2-75 came the Second Pay Commission Report. The Second Pay Commission Report's wage scale equated to C.C.C. Report's wage scale brought 3 scales of pay corresponding to three scales of C.C.C. Report in regard to skilled artisans, such as,

Post	C.C.C. Scale	Second Pay Commission Scale
Skilled Artisans	60—5—75 75—3—105 100—5—130	110—3—131 125—3—131—4—155 150—3—180

11. Second Pay Commission Report came into effect on and from 1st October 1959. The Commissioners for the Port of Calcutta, the Opposite party, placed before me their Establishment Schedule for the year 1971-72. At page 7 there are two columns, existing scale of pay S.P.C., equivalent to C.C.C. scale of pay, and the other corresponding scale—I mean SPC equivalent to C.C.C. pay scale, and the revised Central Wage Board's scale of pay. The Second Pay Commission's report was not placed before me. The Report of the Central Wage Board for Port and Dock workers at Major ports does not make any provision altering the method of promotion of skilled artisans from scale to scale of pay as made by the C.C.C. Report in paragraph page 6 of the Report and in regard to Calcutta Port, in paragraph 28, page 6 of the Report. The page 1, Part II of the Establishment Schedule of the Commissioners of the Port of Calcutta, 1971-72, under the heading 'Revision of Pay Scale—Class III and IV Employees, says:

"The scales of pay of Class III and IV employees were revised w.e.f. 1st October, 1957 as per recommendations of the classification and categorisation committee. These scales of pay have further been revised w.e.f. 1st July, 1959 in the light of the recommendations of the Second Pay Commission vide Reso. 152 of 1962 and from 1st January, 1969 in terms of the Government decision the recommendations of the Central Wage Board for the Port & Dock workers vide Reso. 497 of 20th April, 1970***".

So, the Commissioners for the Port of Calcutta have implemented in regard to the skilled artisans, the scales of pay as prescribed in paragraph 27 of the C.C.C. Report, page 6 and paragraph 28 in regard to Port of Calcutta in particular, with effect from 1st October, 1957, as well as those of Second Pay Commission Report from 1st July 1959, and of the Central Wage Board recommendations for Port and Dock Workers with effect from 1st January, 1969. Neither in the Establishment Schedule nor in the Central Wage Board's recommendations I could find anything contrary to what has been stated in C.C.C. Report, paragraphs 27 and 28 regarding the method and manner of scale to scale promotion of skilled artisans in regard to Calcutta and other major Ports. From 1st October, 1957 to 30th June, 1959 the workman No. 1 got the skilled artisans scale of pay as C.C.C. Report had fixed at Rs. 60-5/2-75. From 1st July, 1959 to 30th December, 1968 the workman No. 1 also got the scale of pay at Rs. 110-131, being the scale of pay prescribed by the Second Pay Commission equated to C.C.C. scale. Now, I should make it clear that as C.C.C. scale of pay, & the Second Pay Commission's scales of pay, are equated to Central Wage Board scales of pay which are now available to skilled artisans of Calcutta Port, the three scales of pay are therefore intertwined, being inextricably inter-dependent on one another ultimately standing at Central Wage Board scale and that the effect of paragraphs 27 and 28 of C.C.C. Report in regard to scale to scale promotion of skilled artisans must have at all such stages of revisions of pay scales operated and shall now also operate.

12. Now, as I have pointed out in regard to Das Gupta award (paragraph 44 and Annexure IV thereof), skilled artisans mentioned in C.C.C. Report as in paragraph 27 page 6, particularly in paragraph 28 of the Report, relating to the Calcutta Port have been serially described with their job nomenclatures at page 63 Schedule II—Calcutta Port C.C.C. Report, Sl. No. 76A—Rivetman—Rs. 35-1-50 existing scale of pay but as fixed by the Committee Rs. 60-5/2-75, Sl. 107—Viceman grade II, existing scale 40-2-60, but as fixed by the Committee 65-5/2-75, page

64 C.C.C. Report. Fitter Sl. 90—grade II—existing scale 40-2-60, but as fixed by the Committee 60-5/2-75. In the remark column against Fitter, item 90—grade II and Viceman grade II there are the words "in the scheme of skilled scale". But in the remark column against Sl. 76A rivetman the words "in the scheme of skilled scale" are conspicuous by their absence (page 63, C.C.C. Report). This absence of the words aforesaid is inconsistent with the recommendations as in paragraph 27 and 28(i) *vis-a-vis* with the scale of pay fixed by the C.C.C. Report for the workman No. 1, rivetman Sl. 76A Schedule II, page 63. During the period from 1953 to 30th September, 1957 the workman No. 1 was in the scale of pay of Rs. 40-60 vide the statement in writing given by Sri Biswas for the union for the workman No. 1, copy of which was served on the Port Commissioner's representative before me on 3rd March, 1972 and the Port Commissioners did not object to it. As the workman No. 1 was in the grade 40-2-60 during the period from 1953 to 30th September, 1957, he got the scale of Rs. 60-5/2-75 as a skilled artisan holding the post in the existing lowest skilled category in terms of C.C.C. recommendations. On that indisputable fact the C.C.C. Report fixed vide Schedule II page 63 that the Rivetman Sl. 76A should get revised scale of pay at Rs. 60-5/2-75. Against Sl. 76A rivetman—page 63, Schedule II C.C.C. Report entries in Col. 3—existing scale 35-1-50 and col. 4 as fixed by the Committee 60-5/2-75 and absence of the words in the scheme of "skilled scale" in remark col. 6—present outrageous inconsistencies as amongst the entries themselves and with the specific and clear recommendations of C.C.C. in paragraphs 27 and 28 (i) of the Report. If the workman No. 1 Sl. 76A rivetman was in the scale of Rs. 35-1-50, the C.C. Committee could not fix him in the scale of pay of Rs. 60-5/2-75 in view of clause (1) of recommendations in paragraph 28, page 6 of the report. Because the workman No. 1, a skilled artisan was in the scale of pay Rs. 40-2-60 on 1st October, 1957 holding a post in the existing lowest skilled category, he could be, consistent with the specific recommendations in paragraphs 27 and 28 (i) of the C.C.C. Report, given the scale of pay 60-5/2-75. Therefore, in column 3, existing pay against a Rivetman Sl. No. 76A at Rs. 35-1-50 is a clear mistake, inconsistent with paragraph 27-28 (i), page 6 of the C.C.C. Report. If Fitter grade II, Sl. 90 and Viceman grade II Sl. 107 like the Rivetman Sl. 76A were not "skilled artisans" in the scale of 40-2-60 on 1st October, 1957, none of them could be fixed by the C.C.C. as per Schedule II, page 63-64 in the scale of pay 60-5/2-75 read with the recommendations at paragraph 27 and 28 (i) & (j) of C.C.C. Report. Against Sl. No. 76A Rivetman in the remark column there is the absence of the words "in the scheme of skilled scale", although against Sl. 107—Viceman grade II and Sl. 90—Fitter grade II, page 64, Schedule II C.C.C. Report, there are those words. Like the Annexure IV and paragraph 44, Das Gupta award paragraph 27-28 and Schedule II and the Sl. 76A, 90, 107 referred to above are bristling with apparent irreconcilable inconsistencies. The findings of the Das Gupta award as I have already said, and the clear and specific recommendations of C.C.C. report should get better the errors, omissions or inconsistencies in the relative Annexures and Schedules on the principle of the rule of harmonious construction applicable to documents suffering from such malaise as those I have just pointed out. So, once workman No. 1 was found to be a "skilled artisan" in the grade of 60-5/2-75 by the C.C.C. Report, Schedule II, page 63, he must be held to be in the schemes of skilled scale to resolve the inconsistencies apparent on the face of the record regarding which I have made elaborate discussions as above. In this view of the situation, from 1st July, 1959 to 30th December, 1968, according to Second Pay Commission scale equated with C.C.C. scale the workman No. 1 got the scale of pay at Rs. 110-131. Now, the question is to what scale of pay

under the Central Wage Board recommendations the workman shall be fitted in.

13. Let me now refer to the Establishment Schedule for the year 1971-72 as made by the Commissioners for the Port of Calcutta under Section 30 of the Calcutta Port Act. This Schedule must be prepared relating to staff and employees. Let us now turn to note Part II, page 2 with the heading "Statement showing the revised Wage Board scale of pay as adopted in terms of the Government decision on the recommendations of the Central Wage Board" under Resolution No. 497 of 5th Meeting held on 20th April, 1970 with effect from 1st January, 1969 and to page 8 Chief Engineer, Sl. 5, heading "Existing Scale and Revised Scale". Existing scale means Second Pay Commission scale of pay equated to C.C.C. scale and Revised scale means the Central Wage Board recommendation-scale. Now, Second Pay Commission recommended three scales: 110-3-131; 125-3-131-4-155, 150-3-180. Central Wage Board corresponding scales are 150-4-170-5-190, 166-4-170-5-195-6-225 and 190-8-254, respectively. The Wage Board recommendations came into effect from 1st January, 1969. The scale corresponding to the scale 110-131 is 150-190; next scale 125-155 corresponds to scale 166-225 and the third scale 150-180 corresponds to 190-254. Now, the C.C.C. scale equated to Second Pay Commission scale lastly equated to Central Wage Board scale of pay, now prevailing, relate to Fitter Mistry, Fitter Rivetman, Revetter, Viceman (see under Sl. 5, page 8) I have already observed that paragraphs 27 and 28 of the C.C.C. Report must always be read while reading the scales to pay as fixed by the C.C.C., the Second Pay Commission equated to C.C.C. scale and the Central Wage Board recommendations. When the workman No. 1 got the scale of Rs. 110-131, being the Second Pay Commission's scale equated to C.C.C. scale of Rs. 60-5/2-75, there can be no question that the workman No. 1 is bound by C.C.C. report although I have observed certain inconsistencies in the Report which I have, on the principles of the rule relating to harmonious construction of documents, affected with apparent reconcilable inconsistencies, resolved in the manner I have already discussed in detail. The Sl. 76A-Rivetman-Schedule II, page 63 of the C.C.C. Report, should, therefore, be read as relating to the scheme "skilled scale" to make the entries in columns 3 and 4 thereof consistent and reconcilable with the clear and specific recommendations as in paragraph 27 and 28 (i) of C.C.C. Report when the workman No. 1 as Rivetman-skilled artisan—was in the scale of pay of Rs. 40-2-60 upto 30th September, 1957 when C.C.C. scale was made available to him. If I do not resolve the inconsistencies in the manner and to the extent I have observed, the C.C.C. report shall stand entirely condemned. But that cannot be legally an acceptable proposition and would offend against the realities of the situation evident from the materials I have already discussed. So, the two obstacles created by the submissions made by Shri Biswas have now been cleared off. The scales of pay of Das Gupta award could not be made effective. The scales of pay of C.C.C. report were made effective and were availed of by workmen including the workman No. 1. He also availed of the scale of pay of Second Pay Commission equated to C.C.C. scale. So, he must be bound by the C.C.C. report as explained and interpreted by me. He should be considered, in view of the C.C.C. report as interpreted by me in the scheme of skilled scale. When the second Pay Commission came into force it was implemented and the workman No. 1 got the benefit of the scale of 110-131. When Central Wage Board scale came, the workman No. 1, being in the scale of 110-3-131, must be fitted in the scale of 150-190. In that way, he would be fitted in the successive Wage Board scales of pay, subject however to his service being approved, and to his passing the trade test in terms of paragraph 27 of C.C.C. Report,

page 6. C.C.C. Report to that extent is binding on the workman No. 1 as well as on workman No. 2. They have got one benefit of the scale of pay under C.C.C. report. They cannot be allowed to approbate and reprobate at the same breath while taking advantage of monetary benefits in the scale of pay as prescribed by C.C.C. report as well as by the Second Pay Commission equated to C.C.C. scale. The Central Wage Board scales also are binding on the workman and Port Commissioners and should be implemented in the case of workman Nos. 1 and 2 when, as shown at page 8 of the Schedule, the Port Commissioners of Calcutta have accepted that the C.C.C. scale equated to Second Pay Commission scale as well as the scales of pay as recommended by the Central Wage Board. The Central Wage Board scales of pay would be, as of right, available not only to Fitter, Viceman, but also to Rivetman and all those mentioned in Sl. 5, of page 8 in the Chief Engineer's department subject, however, in all cases of "skilled artisans" to the conditions of their services being approved and of their passing the trade test as laid down in paragraph 27 of C.C.C. report for promotion from scale to scale. There is no escape from such a situation. No amount of argument either by the union or by the representative of the Port Commissioners can brush aside the Establishment Schedule 1971-72 prepared under Section 30 of the Port Act and implemented by the Commissioners for the Port of Calcutta. Time and energy have been spent for fighting with the air. If anyone looks to page 8 of the Establishment Schedule, he need not look into the voluminous Central Wage Board Recommendations, the C.C.C. Report and the Das Gupta award. The Commissioners for the Port of Calcutta had implemented the C.C.C. Report, the Second Pay Commission Report, and are bound to implement the Central Wage Board recommendations in full. At page 8 of the Establishment Schedule 1971-72, as I have pointed out, the Rivetman, Fitter Mistry, Viceman shall get, as they were to have got the scale to scale of pay on promotion subject however to two conditions as in paragraph 27 of C.C.C. Report which is binding both on the Port Commissioners and on each and every workman in service in 1957 and those coming into service after 1957 under the Commissioners for the Port of Calcutta.

14. I again refer to page 8 of Establishment Schedule 1971-72. What the Union and the two workmen are fighting for? How can anybody create a post of a ridiculous nomenclature Viceman Fitter? A Viceman, a Fitter, and a Rivetman are three different job nomenclatures with three different job descriptions but the scales of pay of each of them have been under C.C.C. Report, the Second Pay Commission Report, the Central Wage Board Recommendations and Establishment Schedule prepared by the Commissioners for the Port of Calcutta have been the same since each of them joined in the service of the Port Commissioners and designated either as Rivetman or as a Fitter Mistry or as a Viceman in the Chief Engineer's department of the Port Commissioners.

15. It is profitable to note that the C.C. Committee classified artisans as skilled, semi-skilled and highly skilled. Then it assigned certain job nomenclatures to skilled, semi-skilled and highly skilled artisans. As I have already found, that according to the C.C.C. Report para 27 and 28 read with Schedule II, page 83-84, Sl. 76A, 90 and 107, a Rivetman a Fitter and a Viceman are classed as skilled artisans each with three scales of pay, the promotion of the skilled artisans from lowest to the highest scale, as recommended by the C.C.C. Committee would not depend upon the vacancy to a post to which the graduated higher scales of pay may be attached. The skilled artisan in the lowest scale after reaching the highest limit of the scale shall have to pass a trade test and his services must be approved by the authorities. If the

next scale is attached to any post to which there is no vacancy, the artisan in the lowest grade having passed the trade test and approved service to his credit, in spite of no vacancy in the post to which the higher scale of pay may be attached, shall get the higher scale but may not get the job nomenclature for the post to which the higher scale of pay is attached. Take this illustration: The first stage in the next higher scale of pay is attached to a post with a job nomenclature say, fitter, but the man holding the job of a fitter has still to run some years. So there is no vacancy in the post of a fitter. A Rivetman, remaining as a Rivetman shall, however, get the scale of pay available to a fitter, and in the same way when a Rivetman reaches the highest limit of the second scale of pay and passes the trade test and his service is approved, he would get third or the highest scales of pay if at that stage even there may be no vacancy in the post to which such scale of pay may be attached. Suppose there is no vacancy at the first stage of the highest scale attached to the post held by, say, a Viceman, as the sanctioned post in the Chief Engineer's department for Viceman are only two. The Rivetman who could not get the job nomenclature of a fitter may still get the highest scale of pay but may not in the situation illustrated get the job nomenclature of a Viceman. So, promotion from scale to scale of a Rivetman would not depend upon the vacancy in the post with a certain job nomenclature to which the relative higher scale of pay may be attached, in view of the clear and specific recommendations in paragraph 27 of the C.C.C. Report.

16. In this context, I feel tempted to quote a near similar case which came up for decision by their Lordships of the Division Bench of the Mysore High Court (Chief Justice Pai and Justice Nesargi, reported in 1972 Labour and Industrial Cases, p. 143). What happened was this: Kolar Gold Mining Undertaking of the Government of India was originally a concern called John Taylor and Sons. One T. S. Chandrasekaran joined the service, when the Kolar Gold fields were being worked by the said John Taylor & Sons. He continued to work even after the Kolar Gold fields were taken over by the Government of India as a Government Undertaking. The employees of the Undertaking were originally classified or categorised as daily rated and monthly rated employees. Chandrasekaran was a monthly rated employee. Monthly rated employees were divided into three grades Works Establishment (Underground), Works Establishment (service) and Office Establishment. The office establishment have seven different grades of pay distinguished as A grade to G grade. Chandrasekaran in A grade was working as Head clerk. After the Kolar Gold fields had been taken over by the Government of India and became a Government Undertaking, the President, by an order, revised the scales of pay applicable to what are called the Covenanted posts held by covenanted employees before the Kolar Gold fields had been taken over by the President. In the Annexure to the Schedule of revision of scales of pay of covenanted service holders a post with a job nomenclature Store-keeper appears. The revised pay scale applicable to the Store keeper in the covenanted grade is higher than the pay scale attached to the post in which Chandrasekaran was working. Chandrasekaran claimed that he was entitled to be placed on the higher scale of pay of a Store-keeper. The revised scales of pay and the posts to which such revised scales of pay were attached related only to covenanted officers both under the Company as well as under the Government of India, while for monthly rated employees who were not covenanted employees as Chandrasekaran was not, their scales of pay were fixed in seven grades i.e. A to G. The monthly rated A grade establishment staff Chandrasekaran, by an order dated 28th April, 1961

was appointed to work as a Store keeper in the Electricity department in the vacancy caused by the resignation of one David. It was found by their Lordships of the Mysore High Court that in the Schedule of posts in Establishment staff, who are all monthly rated employees, there is no mention of the post of a Storekeeper, but in the Annexure to the revised scale of pay for covenanted officers there is a post mentioned with the job nomenclature of a Storekeeper. Now, Chandrasekaran took advantage of the situation. He contended that when he was asked to work as a store keeper, while being a monthly rated employee in Grade A but not a covenanted employee, he must get the pay of the post of a store keeper in the covenanted scale, when the job with the nomenclature of a Store-keeper appears only in the Annexure to the revised scales of pay, available to covenanted employees when the post with the job nomenclature of a store-keeper does not appear in the Schedule of pay grades, available to monthly rated employees. The Government contended that the right to receive pay by monthly rated employees depended upon the grade in the scales of pay available to them, and not upon the designation of the post in which they are for the time being asked to work. The Government also contended that in regard to A grade monthly rated employees, they may be asked to work as Headclerk, personal Assistant, Store-keeper or in any other similar clerical capacity in the office establishment of the Undertaking of the Kolar Gold Mines. Now, considering the situation their Lordships observed at page 144 of the report, "That such must be the position or at any rate, that the omission to name the post of Store Keeper with reference to pay scale prescribed for monthly rated employees makes no difference to the case of the petitioner, is clear from the fact that the petitioner who originally entered service as an employee continues to be so and has not entered into a specific contract of service with the undertaking as is the case with the covenanted employees or officers. We are therefore unable to accept the petitioner's case that for reason only of the fact that he is called upon to work as a Store-keeper, he becomes entitled to the pay scale applicable to a covenanted post". In that decision their Lordships while considering the promotion of one Ramachandran to a higher scale of pay against which Chandrasekaran made a grievance observed, "It is pointed out in the counter-affidavit that Ramachandran was not working as a Store Keeper but as an Assistant Cashier and Accountant in one of the Mines having been promoted thereto on a selection made by a promotion committee. "A" grade employees, as their Lordships observed, were to work in a clerical capacity, viz., Headclerk, Personal Assistant, Store-keeper and Assistant Cashier was not working in a clerical capacity. Ramachandran while working as Assistant Cashier was promoted to the post of an Accountant with higher scale of pay to which the Store-keeper Chandrasekaran was not. Chandrasekaran made a grievance contending that as Assistant Cashier, Ramachandran and as Store-keeper Chandrasekaran were both in grade "A" working in clerical capacities. But their Lordships held that the post of Assistant Cashier and Store-keeper were not of the same category as the two posts bore two different scales of pay. So, that decision clearly brings out the following points in a correct perspective: (a) the classification or categorisation of employees relates to the scale of pay applicable to them, and not to the designation of a post in which they are for the time being asked to work; (b) two posts are of the same category when the pay scale attached to each of those is the same irrespective of the job nomenclature of posts. Now, let us examine the case of the workmen No. 1 and 2, Rivetmen, vis-a-vis, Viceman and Fitter in the Chief Engineer's department of the Commissioner for the Port of Calcutta in the light of the decision of their Lordships of the Mysore High Court. For what it is worth, according

to the Das Gupta award a Rivetman, a Viceman and a Fitter are "skilled artisans". According to C. C. Committee's Report a Viceman, a Fitter and a Rivetman, in spite of inconsistencies in the entries in Sl. No. 6A, Rivetman Schedule II, page 63 of the Report, are all "skilled artisans" in view of the recommendation in paragraph 27 and particularly in paragraph 28 relating to Calcutta Port. Skilled artisans in C.C.C. Report, Second Pay Commission Report and Central Wage Board Recommendations are entitled to three graduated scales of pay. In view of the recommendations in paragraph 27 of the C.C.C. Report which shall govern also the Second Pay Commission's Report and Central Wage Board recommendations relating to promotions from scale to scale of "skilled artisans" a Rivetman, even if there is no vacancy in a post with a job nomenclature to which each of second and third scales of pay under C.C.C. Report, Second Pay Commission Report and Central Wage Board recommendations may be attached may go on with the job nomenclature Rivetman, but would get scale to scale promotion to two higher scales successively subject however to two conditions as laid down in para 27 of the C.C.C. Report. A Rivetman's right while retaining the job designation of a Rivetman to get higher scales of pay under the C.C.C. Report scale, Second Pay Commission Report and the Central Wage Board recommendation depends firstly on his being classified as a "skilled artisan" and secondly on his passing trade test and thirdly on his service being approved (See paragraph 27 C.C.C. Report page 6). So, nomenclature of a job or the nature of duties performed by a person doing a job has no practical importance if he falls within a particular classification or categorisation which carries a graduated scales of pay as in the case of skilled artisans under C.C.C. Report, as well as a channel of promotion from scale to scale in the manner and to the extent I have already discussed. Their Lordships of the Supreme Court in the case of S. M. Pandit and others v. The State of Gujarat, reported in 1972 L.C. p. 155, pointed out that when employees form a class by itself each of the employees in such class shall have equal pay and equal right of promotion to higher scales of pay, if prescribed. In that case the question was whether recruited Mamlatdars and promoted Mamlatdars formed one class. Their Lordships found that "Mamlatdars", formed a class of employees. Of the Mamlatdars, some may be directly recruited, some may be promoted from lower ranks but both the promotees and the direct recruits form a class i.e. Mamlatdars. So all Mamlatdars shall have the same scale of pay, being within a class of employees, viz., Mamlatdars and shall have equal rights of promotion as prescribed (See also Mervyn Continho v. Collector of Customs, Bombay AIR 1967 S.C. 52 and Roshan Lal Tandon v. Union of India, AIR 1967 S.C. 1889). In that decision their Lordships also emphasised the importance of classification or categorisation of employees vis-a-vis their scales of pay and channel of promotion. In the Mysore case, monthly rated A grade employees of the office establishment were entitled to a scale of pay while performing jobs with different nomenclatures Chandrasekaran, while in grade A, monthly rated scale was ordered to work as a Store-keeper but in the schedule of scales of pay of A Grade employees posts with different job nomenclatures appeared but not the post with the job nomenclature of a Store-keeper. So, their Lordships of the Mysore High Court pointed out that the designation or the nomenclature of a job was of little significance. What according to their Lordships was vital to employees is their grade or scale of pay relative to their classification or categorisation. In the Supreme Court case their Lordships emphasised on the classification or categorisation of employees when relative to the classification or categorisation of employees, their scales of pay are prescribed along with the channel of promotion within the grade of the class or beyond the grade to a different class with higher scales

of pay. In this case the two workmen are in the class or category of "skilled artisans" and as such, be they Rivetmen or Vicemen or Fitters or doing a job without any nomenclature attached to it, in the Chief Engineer's Department of the Commissioners of the Port of Calcutta are doing their jobs as "skilled artisans" and shall get, subject to the conditions in paragraphs 27 and 28 of C.C.C. Report the scales of pay including promotion from scale to scale under C.C.C. Report scales of pay equated to Second Pay Commission Report scales and Central Wage Board recommendation scales—all implemented as shown in the Schedule of Establishment, 1971-72 filed by the Commissioners for the Port of Calcutta before me. Sri Biswas for the Union thought that if the job nomenclature of workmen 1 and 2—Rivetman could be changed to a ludicrous job nomenclature Viceman fitter—the two workmen would get the successive higher scales of pay under the C.C.C. Report equated to Second Pay Commission Report scales and Central Wage Board recommendations scales. I think Sri Biswas with the time at his disposal could not go through the Establishment Schedule 1971-72, page 8, Sl. 5 as made by the Commissioners for the Port of Calcutta. A Viceman, a Fitter, a Rivetman and all those employees with the specific job nomenclature as set forth in Sl. 5, did get, are to get and will be getting the successive graduated scales of pay as shown in the relative columns subject, as per page 8 of the Schedule referred to above, as I have already observed, subject to the conditions laid down in paragraph 27 of the C.C.C. Report which must be held binding on the two workmen and to all other employees in the Chief Engineer's Department under the Commissioners of the Port of Calcutta in the manner and to the extent I have already observed. So, the two workmen now before me who are designated as Rivetman must get the successive graduated scale of pay, now under the Central Wage Board recommendations as shown in page 8 of the Schedule subject however to the two conditions as under para 27 of the C.C.C. Report. The designation of their post as Rivetmen would neither humiliate them in status nor make each of them a loser on the financial side. Sl. 5, page 8 of the Establishment Schedule 1971-72 relates to holders of posts with different job nomenclature such as Viceman, Fitter, etc. and within Sl. 5 is also included the Rivetman, i.e. the two workmen now before me. All those that are under Sl. 5, page 8 of the Schedule, are entitled to be fixed in successive graduated scale of pay right upto the scale under the Central Wage Board recommendations as admitted in the Establishment Schedule of 1971-72 prepared and published by the Commissioners of the Port of Calcutta.

17. A Rivetman, a Fitter and a Viceman, since the implementation of C.C.C. report to which Second Pay Commission is equated as well as the Central Wage Board recommendations, shall be considered as "skilled artisans" and shall have same scale of pay and shall have promotion from scale to scale strictly in terms of paragraph 27 as well as paragraph 28 in regard to Calcutta Port. It is impossible for any tribunal to imagine a post of Viceman fitter and call upon the Commissioners for the Port of Calcutta to create an illusory post with a cadaverous job nomenclature of Viceman fitter—when, however, the Commissioners for the Port of Calcutta in the historic past created posts with the diverse job nomenclatures—Rivetman, Fitter, Viceman, etc. and have since the implementation of the C.C.C. Report and Second Pay Commission and Central Wage Board recommendations given to each of the holders of the posts falling within a class of employees, diverse, and having different job nomenclatures, the same scales of pay, and are committed to offer the same scales of pay as well as the channel of promotion, without any discrimination, as would clearly appear from Sl. 5 page

of the Establishment Schedule prepared and published by the Commissioners of the Port of Calcutta for 1971-72 under Section 30 of the Port Act. So, the demand of the two workmen for directing the Port Commissioners for the Port of Calcutta to create for each of them a cadaverous post of Viceman Fitter is not only fantastic but is also opposed to realities of the situation and to the common course of official business of a statutory Corporation like the Commissioners for the Port of Calcutta. The Commissioners for the Port of Calcutta, and the other authorities such as the C.C.C. Committee taking into consideration the nature of job performed by an employee of a specific class—skilled artisans in the Chief Engineer's Department gave a nomenclature for each job, creating thereby against the holder of such a job a post and fitted each of the holder of a job to a scale of pay as available to the class to which is categorised. Das Gupta award would show that there was some difference of pay between a Viceman and a Fitter on one side and Rivetman on the other though all were classed "skilled". But the C.C. Committee emphasised, by creating classes of artisans, viz., skilled semi-skilled and highly skilled, on the availability of graduated scales of pay and channel of promotion from scale to scale for each within the class of skilled artisans, irrespective of vacancy in a post with a specified job nomenclature to which higher promotion scale of pay in the time scale, might be attached. It is pertinent to note that C.C.C. irrespective of the job nomenclature of a post to which higher scale of pay might be attached and to which at a particular time, there may not be any vacancy, prescribed that a skilled artisan, holding a post in the lowest grade of pay irrespective of his job nomenclature shall on promotion, being only within the class of a skilled artisans with approved service and having the credit of passing trade test, to two higher scales stages hope on the rung of a scale higher than the scale to which he is attached to further rung in the highest scale. I have already observed that the workman No. 1 got the benefit of the C.C.C. scale to which was equated the Second Pay Commission scale. The workman Nos. 1 and 2 irrespective of their job-nomenclature, attached to their respective posts and irrespective of the nature of job performed by them, while holding their posts with the job nomenclature 'Rivetman' shall as of right, be entitled to the successive scale of pay, since the date of their respective appointment to such post as available to a Fitter and to a Viceman all categorised as skilled artisans in view of the definite commitments made in clear and unmistakable terms by the Commissioners of the Port of Calcutta in Sl. No. 5 page 8 of the Establishment Schedule, 1971-72 made under Section 30 of the Port Act, following C.C.C. Report, second Pay Commission Report and Central Wage Board recommendations.

18. As the job holder Workman No. 1 and workman No. 2 designated as Rivetman are each to get the same scales of pay and channel of promotion and all other emoluments just as a Viceman or a Fitter, is getting as shown in the Schedule referred to above, the workmen therefore cannot have anything to complain. Their posts with the job nomenclature of Rivetman would entitle them as of their right to get successive prescribed and implemented scales of pay right upto the Central Wage Board scales of pay and fitment into the relative scales of pay as committed in Sl. No. 5 of the Schedule at page 8 made and published by the Commissioners for the Port of Calcutta for the years 1971-72 under Section 30 of the Port Act subject, however, to the conditions as laid down in para 27 and 28 of C.C.C. Report, page 6. The schedule thus creates a statutory obligation between the Commissioners of the Port of Calcutta and its workmen and this schedule relating to skilled artisans in Sl. No. 5, page 8, must always be interpreted with reference to paragraphs 27 and 28 of C.C.C. Report, particularly in

8 regard to skilled artisans, workmen of the Port of

Calcutta while fitting them into the scales of pay, and working out the manner and method of their promotion to successively to such implemented different scales of pay right upto what the Central Wage Board has recommended as available to all skilled artisans mentioned in Sl. No. 5 of the Schedule, page 8 including workmen 1 and 2 who are skilled artisans, even if, they are designated as Rivetmen. With their designation as Rivetmen they are entitled to the same facilities as regards pay scales and promotion opportunities as are available to a Viceman or to a Fitter (see Sl. 5 page 8 of the Establishment Schedule for the year 1971-72 prepared and published by the Commissioners for the Port of Calcutta under Section 30 of the Port Act). So, the demand of the two workmen sponsored by the union concerned is unreal and fantastic in view of the situation both of fact and law as I have discussed and found in this decision. Accordingly the demand of the two workmen as in the Schedule to the dispute under reference, covered by points (i) and (vi) has no rational basis to stand upon and cannot, how therefore, be accepted having regard to the commitments made in Sl. No. 5, page 8 of the Schedule prepared and published by the Commissioners for the Port of Calcutta for the year 1971-72. This tribunal cannot direct to designate each of the two workmen as Viceman Fitter. As Rivetmen the workmen No. 1 and 2, in view of the commitments, made by the Commissioners for the Port of Calcutta in Sl. 5 page 8 of the Schedule referred to above must be fitted from 1st September, 1969 in the appropriate scale of pay recommended by the Central Wage Board and implemented in case of other skilled artisans holding posts with different job nomenclature as in Sl. No. 5 page 8 of the Schedule referred to above and must get, on being fitted in the appropriate scale of pay, as recommended by the Central Wage Board all other emoluments available to the holder of any of the posts mentioned in Sl. No. 5 with any of the job nomenclature as specified in Sl. No. 5, page 8 of the Schedule prepared and published by the Commissioners of the Port of Calcutta for the year 1971-72 with effect from 1st January, 1969. The point in the Schedule of the reference for adjudication as it stands calls upon the Tribunal to find if the two workmen Rivetmen should be redesignated as Viceman Fitter. As I have held, they cannot be so redesignated. As Rivetmen as the workmen No. 1 and 2 are designated, they are entitled to be fitted in the C.C.C. equated to Second Pay Commission scales of pay on and from 1st July, 1959 to 30th December, 1968 in the Second Pay Commission scale of Rs. 110-131 first stage. Workman No. 1 was fitted to that scale and got pay and other emoluments in that scale during the period from 1st July, 1959 to 29th December, 1968. So, he could have no grievance on this aspect. He claims that from 30th December, 1968, he should have been taken to the grade of Second Pay Commission scale equated to C.C.C. scale being Rs. 125-155 and that he should have been on 30th December 1968 fixed at Rs. 155, being the highest stage in the scale of 125-155. I have already observed that to come to the scale of Rs. 125/155 the workman No. 1 shall have to satisfy two conditions. He must pass the trade test and his service must be approved. There is no evidence that at any time before 30th December, 1968 the workman No. 1 passed the trade test and his service was approved. So, before the workman No. 1 can claim to be fitted in the scale of Rs. 125-155 and at Rs. 155 on 30th December, 1968, he must have to satisfy two conditions. But he gave no evidence that he satisfied those two conditions. On 1st January, 1969 came into force the Central Wage Board scale. The C.C.C. scale 110-3-131 corresponds to Central Wage Board scale Rs. 150-4-170-5-190. I have already observed that C.C.C., S.P.C. scale of Rs. 125-3-131-4-155 in force between 1st July, 1959 to 30th December, 1968, could be availed of by the workman

No. 1 and 2 if they would have adduced evidence that any time before 30th December 1968, they had satisfied the two conditions as I have already observed. I find no such evidence that they satisfied those conditions. But on 1st January, 1969, when the Central Wage Board scale came into force the workmen then in the C.C.C. scale equated to Second Commission scale of Rs. 110-131 are not required to satisfy the two conditions. From the scale of 110-3-131 C.C.C. S.P.C. the workman No. 1 and 2 must come to the corresponding Central Wage Board scale of 150-4-170-5-190. But before coming to the next higher Wage Board scale of 166-4-170-5-190-6-225 the two conditions already referred to must have to be satisfied by each of the two workmen. The two conditions as I have been observing are those in paragraphs 27 and 28 of the C.C.C. Report which shall guide all fixation of pay scales and channels of promotions in relation to "skilled artisans" as the workman No. 1 and 2 are, to entitled them to hop from 110-131 C.C.C. scale to C.C.C. scale 125-3-131-4-155 and from there to C.C.C. scale 150-5-180 and to the corresponding two higher and highest scales of pay under Central Wage Board recommendations. But to fit the workman No. 1 and 2 in the C.C.C. scale of 110-3-131 on 31st December, 1968, to Wage Board scale of 150-4-170-5-190 on 1st September, 1969 only recommendations in paragraph 28(i) of the C. C. C. Report will be applicable. But to get after fitment in the Wage Board scale of 150-4-170-5-190, for further promotion the workman No. 1 and 2 shall have to satisfy two conditions for promotion to the successive Wage Board higher scale of 166-4-170-5-195-6-225 and the highest scale of 190-8-250, in view of the recommendations in the C.C.C. report, paragraph 27 which I find binding both on the workmen and the Commissioners of the Port of Calcutta. So, as a Rivetman on 31st December, 1968 for reasons already recorded, the workman No. 1 and 2 cannot claim Rs. 155/- in the C. C. C. scale of 125-155. When the Wage Board scale came into force on 1st January 1969 they shall at once come to the scale of Rs. 150-4-170-5-190 and must be fitted at the lowest rung of such scale on 1st January, 1969 and shall get other admissible allowance available to such scale of pay under the Central Wage Board recommendations but they cannot claim the Wage Board scale of 166-4-170-5-195-6-225 unless they satisfied two conditions which I have already discussed, but there is no evidence that at any time before 1st January, 1969 i.e. between 1st July, 1959 to 31st December, 1968, or thereafter the workman No. 1 and 2 passed the trade test while in C.C.C. S.P.C. scale Rs. 125-155 and their services were approved. So, on 1st January, 1969, they must be as of their right being in the C.C.C. scale equated to Second Pay Commission scale at 110-131 must be fitted in the lowest rung of Wage Board scale of 150-4-170-5-190, from the date of this award with retrospective effect from 1st January, 1969 the Commissioners of the Port of Calcutta may have to fit the workman No. 1 and 2 in the Wage Board scale of 150-4-170-5-190 at Rs. 162/-, and the workmen as a Rivetman may be allowed to draw the arrears of pay with effect from 1st September, 1969 till the date of this award and the available allowances. The workman No. 1 and 2 cannot on the evidence on record claim to be fixed in the Central Wage Board scale of Rs. 166-4-190-5-6-225 as they had not led any evidence to show that at any time before 1st September, 1969 or at any time before the date of date of this award, they had satisfied the two conditions as already discussed. All those that I have discussed regarding the fixation of pay scale of the workman No. 1 and 2 are not within the scope of reference for adjudication. Shri Biswas in the two statements filed on 3rd March, 1972, has shown that from 1st January, 1968 to date of this award workman No. 1 and 2 should be fixed in the Central Wage Board scale of 166-4-170-5-195-6-225-7-253 asserting that in case of a Viceman or a Fitter

the Commissioner of the Port of Calcutta while implementing the Wage Board scale of pay fixed their pay at Rs. 206/- in the scale of Rs. 166—253 and that the workman No. 1 should be fixed on 4th May, 1969 at Rs. 213/- and workman No. 2 at Rs. 185/-. There is no evidence as to how and why the Viceman or the Fitters was fixed in Wage Board scale and whether while in C.C.C. scale S.P.C. scale either of them satisfied two conditions while in the scale of Rs. 125—155. So, the point is without substance. I have already observed that as I cannot redesignate within the scope of the reference the workman No. 1 and 2 Rivetmen as Viceman Fitters, nor can I direct the Commissioners of the Port of Calcutta to redesignate workmen No. 1 and 2 Rivetmen as Viceman Fitters, the question of fixation of the pay scale, determination of arrears of pay and allowances does not arise. Since the reference is that whether the demand of the two workman for designating as Viceman fitter is justified; if so to what relief and from what date are they entitled, the demand, as I find, is in no way justified. The reference is not that what reliefs the workmen as Rivetmen are entitled. I only discussed in passing what reliefs may be available to workmen as Rivetmen. As I cannot redesignate them with an illusory job nomenclature, I cannot extend any relief to them under this reference. But I am only pointing out as I have already pointed out the broad principles on which the workmen No. 1 and 2 shall have their pay scales fixed under the C.C.C. Scale equated to Second Pay Commission scale, equated to Central Wage Board scale in view of commitments made in the Statutory obligations created in between the workman No. 1 and 2, the Commissioners of the Port of Calcutta under the Sl No. 5 of the Establishment Schedule 1971-72, page 8. I think that the Commissioners of the Port of Calcutta would bestow careful consideration over the matter to honour their commitments in regard to fixation of scales of pay relating to workman No. 1 and 2 in terms of the commitments made and Statutory obligations created by themselves in the making and publishing the Establishment Schedule of 1971-72, relating to all skilled artisans workmen mentioned in Sl. No. 5, page 8 without any discrimination against anyone of the employees mentioned in that serial.

All other Points—(ii), (iii), (iv) and (v):

19. In view of my decision on Points (i) and (vi), I need not decide all those other points. I make it clear that within the scope of this reference now for adjudication before me, the workman No. 1 and 2 are not entitled to get anything falling within Points (ii), (iii), (iv) and (v) formulated for decision in this award. The demand of the workmen No. 1 and 2, who are Rivetmen, entitled as such to all benefits as committed by the Commissioners for the Port of Calcutta in Sl. 5 page 8 of the Establishment Schedule, 1971-72, for redesignating them as Viceman Fitter, cannot for reasons already discussed, be accepted nor can the Commissioners for the Port of Calcutta be directed to redesignate each of the workman No. 1 and 2 Ashutosh Dey and Bijoy Ch. Das, Rivetmen as a Viceman Fitter since there is no such post with such a fantastic job nomenclature of Viceman Fitter in the Chief Engineer's Department of the Commissioners for the Port of Calcutta. This Tribunal cannot, therefore, for reasons already discussed and recorded direct the Commissioners for the Port of Calcutta to create two new illusory posts of Viceman Fitter when as Rivetmen in view of his Port Commissioners' commitment and Statutory obligation created in between two workmen and the Port Commissioners under the Establishment Schedule 1971-72, Sl. 5, page 8, the workmen No. 1 and 2 are entitled to get the C.C.C. scale of pay equated to Second Pay Commission scale equated to Central Wage Board scales strictly subject to such conditions as in paragraphs 27 and 28(i) of

C.C.C. Report as already discussed. Therefore, this reference is, rejected.

This is my award.

(Sd.) S. N. BAGCHI,
Presiding Officer.

Dated,

March 22, 1972.

[No. 72/31/70-P&D.]

New Delhi, the 14th April 1972

S.O. 1018.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Messrs Peter and Smith (India) Private Limited, Calcutta and their workmen, which was received by the Central Government on the 3rd April, 1972.

(AWARD)

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 60 OF 1971

PARTIES:

Employers in relation to the Messrs Peter and Smith (India) Private Limited, Calcutta.

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi—Presiding Officer.

APPEARANCES:

On behalf of Employers.—Sri N. C. Das Sharma, Advocate.

On behalf of Workmen.—Sri P. Roy, Advocate.

STATE: West Bengal.

INDUSTRY: Post & Dock.

AWARD

The Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), by their Order No. L-32011/2/71-P & D dated 13th April, 1971, referred the following industrial disputes existing between the employers in relation to the Messrs Peter and Smith (India) Private Limited, Calcutta and their workmen, to this Tribunal, for adjudication:

"1. Whether the action of the management in terminating the services of Shri S. Thol, Jetty Sircar, with effect from the 1st December, 1970 was wrongful and illegal.

If so, to what relief if any, is the workman entitled?

2. Whether Shri B. Shew was employed as a Truck Khalasi from 25th February, 1966 by the management of Messrs Peters and Smith (India) Private Limited, Calcutta, and if so, whether the action of the management in terminating the services of Shri Shaw with effect from 1st December, 1970 was wrongful and illegal.

If so, to what relief, if any, is the workman entitled?

2. After going through the written statement of the respective parties and hearing them orally on the opening of their respective case, the following points

incidental to the main issue under reference arises for decision:

- (i) Was the workman Thoi employed by the employer company as a casual worker on the basis of "no work no pay" with effect from 16-3-70? Is he entitled on retrenchment to any retrenchment compensation under Sec. 25F of the Industrial Disputes Act? Can he claim, if he is a purely casual worker any right under section 25G of the Industrial Disputes Act?
- (ii) In what capacity workman B. Shaw was first employed by the management of the company? Whether as an ordinary mazdoor or as a Truck khalasi?
- (iii) When the truck of the company went out of commission and was ultimately sold how the company employed B. Shaw and for how long?
- (iv) Was B. Shaw from the date of his appointment appointed in a substantive capacity permanently as mazdoor? Was his service terminated according to law? Did the management after termination of the service of the workman B. Shaw a permanent employee of the company employed in his place casual labourer for doing the job he was doing? If so, is it an unfair labour practice?
- (v) Did the management terminate the services of workmen B. Shaw and Thoi for their alleged union activities?
- (vi) After the termination of service of B. Shaw was there any requirement for the company for doing jobs by any permanent mazdoor?
- (vii) Did the workmen including the disputants lawfully authorised the union now representing them in this proceeding to raise the dispute under reference? Did the union submit a charter of demand in regard to the workmen before the management? If not, was conciliation proceeding resulting in failure report and the reference illegal and ultravires the jurisdiction of the Central Government?

Mr. Das Sharma, learned Advocate for the company, wants me to hear the question as regards the legality of the reference and the jurisdiction of the Tribunal to entertain and adjudicate upon it. The learned advocates of both sides were therefore requested to address me on the point (vii) as formulated above. As a matter of fact, Mr. Das Sharma submitted that in regard to the demand of the two workmen, apart from the question of their approaching the union and the union's passing a resolution by its office bearers, espousing the case of the two workmen, the union itself did not place before the company any charter of demand regarding the dispute raised on behalf of the two workmen of the company. Mr. Das Sharma further submitted that the union straight off went to the Labour Commissioner and from the Labour Commissioner the company got a letter intimating initiation of conciliation proceeding and attended the conciliation proceedings. The Labour Commissioner, however, in his letter to the management enclosed a copy of the union's letter addressed to the Assistant Labour Commissioner, Central.

3 Now, the learned Advocate for the union submitted that as regards the workmen's approaching the union and the union's passing of a resolution, at present there is no record with the union to show but he admitted that the union did not submit any charter of demand to the company and went straight to the Labour Commissioner who initiated the conciliation proceedings. So the union failed to show that it was approached by the two workmen with their grievances and that the union by a resolution duly passed espoused the cause of the workmen. The learned Advocate for the union, however, placed before me a decision in the case of *State of Madras vs. C. P. Sarathi and Anr.* reported in 1953 SCR n 333 to support his contention that the direct approach by the

union to the Labour Commissioner with the charter of demand for conciliation in regard to the dispute raised for the workmen concerned before raising the dispute with the management and refusal of the management to accede to the demand, was competent, and did not suffer from any legal infirmity. At page 338 of the Report (*supra*) while stating the facts of the case their Lordships observed that the union made it clear to the Labour Commissioner, Madras, that the demand of the workmen were not conceded to by the management of 24 Talkies in the city of Madras wherefor the Association, meaning the union, requested the Labour Commissioner, Madras to conciliate between the management and the union over the demands of the workmen. The very fact of the case as stated by their Lordships do not, therefore, support the learned Advocate's point of view. On the other hand, a case similar to the present one would appear in a decision of the Supreme Court in *Sindhu Resettlement Corporation Limited vs. Industrial Tribunal, Gujarat & Ors.*, reported in 1968 1, LLJ p. 834SC. Their Lordships held that on the facts of that case that it was clear before their Lordships that the reference made by the Government was not competent. A mere demand to a Government without a dispute being raised by the workmen with their employer cannot become an industrial dispute. In the said case, the Government had to come to an opinion that an industrial dispute existed and that opinion could only be formed on the basis that there was a dispute between the respondent and the appellant relating to reinstatement of the workman concerned. Their Lordships of the Delhi High Court, presided over by Chief Justice Dua, as his Lordship then was, in the case of *Fedders Lloyd Corporation Private Ltd. and Lt. Governor, Delhi and others.* reported in Indian Factories and Labour Reports, 1970(20) p. 343, observed, "A demand by the workman must be raised first on the management and rejected by them before an industrial dispute can be said to arise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejects the same is not sufficient to constitute an industrial dispute." This decision is in all fours with the facts of the present case as submitted by Sri Das Sharma against which Mr. Roy, the learned Advocate for the union could give no reply. Therefore, the preliminary point, i.e. point (vii) must be decided in favour of the management. In view of the two decisions of the highest authorities, I hold that there was no industrial dispute in the present case which could form the subject matter of a legal reference by the Central Government to this Tribunal within the scope of Section 10 read with Sub-section 2(k) of the Industrial Disputes Act. This Tribunal has, therefore, no jurisdiction to entertain and adjudicate upon a dispute which is not an industrial dispute under Sec. 2(k) of the Industrial Disputes Act, 1947. The reference, therefore, is ultravires the jurisdiction of the Central Government under Section 10 of the Industrial Disputes Act, 1947.

In the result, the reference is rejected.

This is my award.

(Sd.) S. N. BAGCHI,
Presiding Officer.

Dated, 28th March, 1972.

[No. L-32011/2/71-P&D]

O. P. TALWAR, Dy. Secy.

(Department of Labour and Employment)

New Delhi, the 11th April 1972

S.O. 1019.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal,

Hyderabad, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited, Bellampalli Division, Post Office Bellampalli (Andhra Pradesh) and their workmen, which was received by the Central Government on the 29th March, 1972.

**BEFORE THE INDUSTRIAL TRIBUNAL
(CENTRAL) AT HYDERABAD**

PRESENT:

Sri V. Jagannadha Rao, Office Bearer of the Union—
Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE NO. 15 OF 1971

BETWEEN

Workmen of Singareni Collieries Company Limited,
Bellampalli Division.

AND

Management of Singareni Collieries Company Limited,
Bellampalli Division.

APPEARANCES:

Sri V. Jagannadha Rao, Office Bearer of the Union—
for Workmen.

Sri M. Shyam Mohan, Personnel Officer, S.C. Co.,
Ltd.—for Management.

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its Order No. 7/11/70-LRII referred the following dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for adjudication by this Tribunal, namely,

“Whether the action of the Management of the Singareni Collieries Company Limited in prescribing 7 a.m. to 1 p.m. underground and 3.30 p.m. to 5.30 p.m. surface as working hours to Sarvashri Neerla Lingaiah and Gallapurapu Rajam, Survey Mazdoors of No. 2 Incline of Bellampalli Division is justified? If not, to what relief are the workmen entitled?”

This reference was received by this Tribunal on 22nd January 1971 and notices were issued to the parties. The petitioners are the Workmen of Singareni Collieries Company Limited, Bellampalli Division and the respondent is the Singareni Collieries Company Limited, Bellampalli Division. The petitioners filed their claims statement and the respondent filed its counter.

2. The contentions of the petitioners in their claims statement in short are these:— Neerla Lingaiah and Gallapurapu Rajam are working as Survey Mazdoors in No. 2 Incline of Bellampalli Division. As per the contract of service and practice, they have been working underground for eight hours as they are active workers of the Union, the Management revised their working hours fixing six hours underground and two hours on the surface. This change involved a loss of emoluments in both the wages and underground allowance. Besides the loss this change has increased their working hours by about 1½ hours every day as it takes one hour for them to come over ground after six hours and also it takes 1/2 hour for them to attend work at 3.30 p.m. Thus they are put to the trouble of working longer hours in contra-distinction to all other Survey Mazdoors in other Pits. The Management have effected this change by issuing a notice dated 14th January, 1970 under Section 9A of the said Act. The Union protested to the proposed change as malafide and unfair labour practice. The Union raised the dispute simultaneously before the Regional Labour Commissioner (C). Even when the dispute was pending before the Regional Labour Commissioner (C) the Management had started paying wages for six hours only even though the workmen were working for

eight hours underground. The Notice of the Management is itself ambiguous. The Management in their letter dated 17th January 1970 addressed to the Union mentioning that the working hours were changed as 7.00 a.m. to 1.00 p.m. underground and 3.30 p.m. to 5.30 p.m. surface but no notice was given with these specific changes to the workmen concerned. The Workmen concerned were not served with any valid notice under Section 9A of the said Act. The change imposed is not contemplated by the Mines or the Rules thereunder. Subsequent to the said clarification to the Union the Management again issued a notice to the two workmen on 4th February 1970 and implemented the change even before the 21 days and in token of their implementation they started deducting two hours wages. The action of the Management was not permitted even by the Standing Orders. So the change of working hours is unjustified and the Management should be directed to pay the arrears of wages and attendant benefits also to the said workers.

3. The contentions of the respondent in its counter in short are these:— That the Workmen named Neerla Lingaiah and Gallapurapu Rajam are the members of the T.C.M.L. Union is not established. The survey mazdoors mentioned were originally working with the surveyor attached to the office of the Deputy General Manager who is the Administrative head of Bellampalli group of mines. They were not working underground through out the week. As per the practice in No. 2 Incline the survey mazdoors observe the timings of going underground in the morning and attend office in the evening session from 3.30 p.m. to 5.30 p.m. The allegations that the workers put in longer working hours is baseless. They were transferred to No. 2 Incline Mine under the same establishment on 1st January, 1970 to work with the Surveyor of the concerned mine. It could be either survey work underground or office work pertaining to the Survey Department on the surface. Loss of emoluments like underground allowance is incidental to one's duties and the grant of such allowance is stipulated in the awards. The hours of work notified is in accordance with the Mines Act. The Management has effected the change of working hours by issuing notice under Section 9A of the said Act. The workers wilfully absented in the evening session from 3.30 to 5.30 p.m. and so the Management is justified in paying them for the number of hours actually worked underground. It is submitted that the notice under Section 9A is strictly in accordance with the Form of the I.D. Rules (Central) and there is no ambiguity. By notice dated 17th January, 1970 clarification was issued in respect of underground and surface timings in reply to the Union's letter dated 16th January, 1970. The timings have been notified on the notice board of the Mine concerned. The change in timings is the right of the Management to order its methods of administration and work and no grievances could emanate so long as there is no reduction in emoluments pertaining to surface workmen. Under the Mines Act eight hours shift is the normal method and the workmen change from one relay to another relay. As per the exigencies of work instead of eight hours, six hours continuous work can be given to any workmen and the balance of two hours work on the surface is in accordance with the Mines Act. The actual implementation of change of working hours is beyond twenty-one days period and as such there is no contravention. It is denied that there was any reduction in emoluments but for their own wilful absenteeism for two hours daily and the said workmen are liable for disciplinary action. When the relevant provisions as Standing Order give inherent rights to fix and notify hours of work and if workmen do not turn up at the hours appointed by the employer for duty, they forfeit the claim of their wages for having been absent. The workmen have absolutely no right to elect their choice of fixing their duty hours in utter disregard and defiance of the employer's orders. Management has the power to vary working hours within the limits prescribed by law. It is not the policy of the

legislation to leave to mutual agreement the determination of such vital matters as working hours holidays and overtime.

4. Now it has to be seen whether the action of the respondent in changing the working hours as 7.00 A.M. to 1.00 P.M. underground and 3.30 P.M. to 5.30 P.M. surface is justified?

5. Now the dispute between the parties relates to the change of working hours as regards the two workmen, namely, Neerla Lingaiah and Ganapurapu Rajam who are working as Survey Mazdoors of No. 2 Incline of Bellampalli Division. Neerla Lingaiah is W.W.2. W.W.1 (Sri Nagalah Reddy) is the President of Tandur Coal Mines Labour Union which is said to be a recognised Union. M.W.1 (Sri J. Krishna Murthy) is the Surveyor, and Incline, Bellampalli and M.W.2 (Sri M. R. Mohan Rao) is the Mines Surveyor, Bellampalli Division. W.W. 2 and G. Rajam were previously working as Survey Mazdoors, Category II in the Surveyor Department, Bellampalli and they were transferred as Centre Boys, Category II to No. 2 Incline, Bellampalli Division with effect from 1st January 1970 as evidence by the office order Ex. W.8 dated 3rd December 1969. In Ex. W.8 it was made clear that there would be no change in their emoluments and in other service conditions except that they would be governed by hours of work and rest days and it is also stated therein that they would be paid underground allowance and leave and bonus facilities as applicable to other underground workers of No. 2 Incline. Subsequently a notice the original of Ex. W.1 dated 13th January 1970 was issued in Form E under Section 9A of the said Act and Rules 57 and 34 of the I.D. Rules (Central) intimating these two workmen that their working hours would be from 7.00 a.m. to 1.00 p.m. and 3.30 p.m. to 5.30 p.m. Since this notice did not mention the place where these two workmen should work as per those timings, the Union sent a letter Ex. W.2 dated 16th January, 1970 protesting against the notice and also mentioning therein that in the original of Ex. W.1 it is not mentioned whether the working hours are underground or surface. To that letter the respondent sent the reply to Ex. W.3 dated 17th January 1970 stating that the working hours 7.00 a.m. to 1.00 p.m. would be underground and that 3.30 to 5.30 p.m. would be on the surface. Subsequently the Union sent the letter the original of W.4 to the Regional Labour Commissioner (C) Hyderabad, contending that the Management wanted to harass the two workmen by enforcing illegal change in the working hours and also requesting him to declare Conciliation Proceedings and a copy of that letter was sent to the Agent, Bellampalli Division. Subsequently the respondent issued the original of Ex. W.5 dated 4th February 1970 (which is same as Ex. M1) to the two workmen stating that they should work underground from 7.00 a.m. to 1.00 p.m. and at Surveyor's Office from 3.30 p.m. to 5.30 p.m. and that these working hours would take effect from 6th February 1970. With reference to the original of Ex. W.5 the Union again sent the letter the original of Ex. W.6 dated 5th February 1970 stating that to enforce such illegal changes forcibly when the issue is seized by the Labour Ministry comes in the purview of the contravention of the said Act and that the Management would be held responsible for any such illegal changes until definite clarification is received from the Labour Ministry. Subsequently there appears to have been Conciliation Proceedings. Ex. W.7 is said to be the copy of the minutes of the Conciliation Meetings. Since the Conciliation Proceedings failed the dispute was referred to this Tribunal for adjudication.

6. It is also seen from the letter Ex. M.2 dated 8th February 1971 that the Ministry of Labour, Government of India informed the President of the Union that the Government of India did not consider the dispute about the payment of wages fit for reference to the Industrial Tribunal because there is alternative

remedy for the workmen to claim for wages under the Payment of Wages Act and it is also stated in this letter that the question of changing working hours by the Management have been referred for adjudication by the Ministry of Labour Order No. 7/11/70-LRII dated 19th January 1971. Though some arguments were advanced by the learned counsel for the petitioner on the question of the payment of wages for the two hours between 3.30 p.m. and 5.30 p.m. in as much as this part of the dispute is not referred to the Tribunal, the question whether the action of the Management in not paying wages for the two hours from 3.30 p.m. to 5.30 p.m. is justified and whether the Management should be directed to pay the wages for those two hours also does not arise now for consideration.

7. So far as the fixing of the working hours as 7.00 a.m. to 1.00 p.m. underground and 3.30 p.m. to 5.30 p.m. surface is concerned the first contention that is urged by the learned counsel for the petitioners is that the respondent has no right, to split the working hours in the way that the respondent did and that such a change is not contemplated under Section 9A of the said Act and that this change is contrary to the service conditions mentioned in Ex. W.8 and the action of the respondent in changing the working hours is not justified and that if any change in the working hours is to be made it should be either by an agreement or by some provisions in the Standing Orders. It is contended by the respondents' representative that the Management has got the right to change the working hours and that it is the inherent power of the Management and that the workmen cannot have their own timings and that it is not the policy of the legislation to leave to mutual agreement the determination of such vital matters as daily and weekly working hours and holidays and overtime and in support of his contention he relied upon the decision reported in *WORKMEN OF HINDUSTAN SHIPYARD LTD. v INDUSTRIAL TRIBUNAL* [1961 (II) LLJ, page 526]. A perusal of this decision shows that their Lordships had occasion to consider Section 9A of the said Act and Item 4 of Schedule IV to the said Act and also the provisions of the Factories Act and Madras Shops and Establishments Act and their Lordships, after considering the relevant provisions, observed that the sections of the Factories Act and the Madras Shops and Establishments Act contained elaborate provisions regarding the number of hours of work per day, rest period, spread over, total number of hours per work, overtime, and the manner of intimation of these hours and holidays, that the Management has the power to vary the working hours within the limits prescribed by law, that there is nothing in these Acts which enjoins that these working hours could be changed only on mutual agreement, that it is not the policy of the above said legislation to leave to mutual agreement the determination of such vital matters as daily and weekly working hours and holidays and overtime, for in a factory or establishment where the labour is not so well organised, it is possible to obtain agreement to adverse working conditions due to pressure of economic necessity, that this would be contrary to the public policy as adumbrated in the law, and that the management has clearly the right to alter the periods of work provided it gives necessary intimation of the change as required by the standing orders and other provisions of law applicable to it. The learned counsel for the petitioners contended that even the decision relied upon by the respondents' representative shows that the Management has the right to alter the period of work within the limits prescribed by law and that in this case it is not merely a change in the working hours but that this is a case where the working hours has been split up as underground and surface and that if such a change is made it would affect the emoluments of the workmen because if they work underground they are entitled to certain higher benefits and that if they are asked to work on the surface for a certain number of hours to that extent their emoluments would be affected and so such a change is not

contemplated by unilateral decision of the Management and that if the Management wants to effect any such change, it should be by way of an agreement and there should be some specific Standing Order and that the present action of the respondent is contrary to service conditions, mentioned in the office order Ex. W8.

8. Now in order to appreciate the respective contentions of the parties first of all the nature of the work done by these two concerned workmen has to be seen. If this is a case where these two workmen are the persons employed for working in the mine in respect of the Mining Operations and if such persons are asked to work underground for some time and on the surface for some time then it may be said that the Management is not entitled to split up the working hours because in that case there would be contravention of the service conditions because in that case the workmen would be deprived of their emoluments to the extent that they work on the surface. But on the other hand if it is found that these two workmen are not concerned with the mining operations and that their work is partly underground and partly on the surface then the Management will be perfectly in order in case they fix the working hours for such workmen as underground and surface. Now the evidence in this case shows that these two workmen are only survey mazdoors working in the Survey Department in Bellampalli Division. W.W.1 says that the Survey Mazdoors and Surveyors are attached to the Agent and not to the Pit and that according to the provisions of Mines Regulations there are Surveyors, Survey Mazdoors and Survey Muccadams attached to each Pit. W.W.2 says that they carry instruments, measure the distance and mark the central line and put marks and that they have to note the measurements and quantity of lime and stone used and that they note the length of the track. According to him the surveyor works till 2.00 p.m. and goes away but that even thereafter he and the other mazdoors and muccadams will have enough work for about an hour and a half.

9. M.W.1 says that after he and the muccadam go up to the surface there will be no work to the mazdoor to do underground. He also says that he has been leaving these workmen by 12.00 noon or 12.30 p.m. He says that the Mines Regulations mention the duties of a Surveyor, that regulation 49(1) and other regulations deal with the duties of the Surveyor and that there are no regulations dealing with the duties of the staff of the Surveyor and that no staff order also was there detailing the duties of his staff and that they have to work in the No. 2 incline. He also says that he is aware of the formula for calculation of underground allowance and that this formula is applied to these two workers because they are expected to work both underground and on the surface. M.W.2 says that his duty hours are 7.00 a.m. to 1.00 p.m. and 3.30 p.m. to 5.30 p.m. that the duty of these two workmen are also same, that whenever they go for survey the two workmen have to carry the instruments and help the surveyor in measuring and survey work, that in the office they help them in mixing colour and preparation of plans, that surface work is also in the Survey and that by 12.30 or 1.00 p.m. Survey muccadams and Mazdoors come out of the Mines and that there is no work for full eight hours underground for the Survey muccadams and mazdoors on any day. So the evidence of M.Ws. 1 and 2 shows that so far as Survey Department is concerned there is work both in the underground and on the surface and that it is not as if that the survey mazdoors and the other staff of the survey department have to work continuously for eight hours daily underground. The evidence shows that there is surface work for the survey staff. In that case the Management has got the right to split the working hours as underground and surface and this right cannot be questioned by the workmen connected with the survey department. I am satisfied that since the present two concerned workmen are only attached to Survey Department and since their duty is both underground and on the surface the Management has right

to revise the working hours and there is no question of any violation of the service conditions arising in this case although Ex. W8 shows that these workmen would be paid underground allowance and other facilities applicable to the other underground workers whenever they work underground. As already stated if it is a case where these two concerned workmen have been employed in the mining operations then only it can be said that the splitting of the working hours as underground and surface would affect their service conditions because in that case they would not be entitled to underground allowance etc. for a portion of the work done on the surface. So I accept the contention of the respondents' representative that the respondent has got the right to split the working hours as underground and surface in this case and that such splitting of working hours does not in any way affect the service conditions of these two workmen.

10. The next contention urged by the learned counsel for the petitioners is that assuming that the respondent has got the right to change the working hours relying on Section 9A of the said Act, still the notice in this case is invalid and so the action of the respondent is not justified. It is contended by him that in Ex. W1 notice the place of work was not mentioned though the working hours were mentioned and that it is only pursuant to the letter Ex. W2 of the Union that the respondent sent the letter of clarification Ex. W3 but that no fresh notice under Form E was given and that even if it is assumed that Ex. W3 can be treated as notice even then the change of working hours should take effect only after 21 days of giving such notice but that in the present case the respondent gave effect to the change in working hours from 6-2-1970 as seen from Ex. W5 and so it is not at all a valid notice that had been issued in this case. The petitioners' representative first of all contended that there is no necessity to issue a notice under Section 9A at all since these two workmen were aware of the normal timings and that the respondent issued the notice so that there may not be any doubt, that even otherwise under Section 36(4) of the Mines Act whenever there is any alteration in the time only one week's notice is contemplated and so the notice given in this case is perfectly valid and that it is left to the Management to fix the hours of work and that even if the notice under Section 9A is required Ex. W1 had been issued and so 21 days should be taken from the date of Ex. W1 notice namely, from 13th January, 1970 and that if so calculated the change effected in this case is only after 21 days. He also relied upon the decision reported in *May and Baker (India) Ltd. v. Their Workmen* [1961 (II) LLJ, page 94]. A perusal of this decision shows that in that case the Company's working hours were from 9.00 a.m. to 5.00 p.m. with three rest intervals and that the Tribunal changed the hours to 9.30 a.m. to 5.00 p.m. with one hour's interval for lunch. It was contended before their Lordships that the fixation of working hours is peculiarly a Management function and that there was no reason for the Tribunal to interfere with the hours of work fixed by the Company, particularly when they were well within the hours allowed under the Delhi Shops and Establishments Act. While considering this contention their Lordships observed that in the circumstances there was no justification in the reduction of the working hours for the subordinate staff since the workmen cannot both work and take tea at the same time.

11. Now first of all it has to be seen whether any notice is required under Section 9A of the said Act. It is seen from Ex. W8 that the petitioners were directed to work in the 2nd Incline and it was made clear in that order that these two workmen would be governed by hours of work and rest days. It is seen from the evidence that the working hours in the mine are from 7.00 a.m. to 3.00 p.m. Now the respondent wanted to split up the working hours as from 7.00 a.m. to 1.00 p.m. underground and from 3.30 p.m. to 5.30 p.m. on surface. Under Section 9A of the said Act no employer who proposes to effect any change in the

conditions of service applicable to any workman in respect of any matter specified in the fourth schedule shall effect such change without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected. Item 4 in Schedule IV relates to the hours of work and rest intervals. So when the respondent wants to change the working hours the respondent has to issue a notice as contemplated under Section 9A and as per the rules this notice should be in Form E. That is the reasons why the respondent had issued the notice Ex. W1 in Form E. So when this notice under Section 9A is given and if it is the intention of the respondent that these two workmen should work underground from 7.00 a.m. to 1.00 p.m. and on surface from 3.30 p.m. to 5.30 p.m. then in the notice itself the change in working hours and the place where these two workmen should work should be notified. Admittedly in this case except mentioning the working hours, the place where these two workmen should work during those working hours has not been notified. It is because of this lacuna the Union sent the letter Ex. W2 asking for clarification and it is only pursuant to that the clarification letter Ex. W3, dated 17th January, 1970 was sent to the Union mentioning the place where these two workmen should work. The learned counsel for the respondent relied upon the decision reported in *North Brook Jute Co. v. Their Workmen* (AIR 1960 Supreme Court page 879) in support of his contention that any notice that is issued under Section 9A of the said Act should be a valid notice under the prescribed form and that unless such a valid notice is given the change in the working hours would not take effect. A perusal of this decision shows that a notice under Section 9A of the said Act was given by the Company to the Unions of their workmen and the workmen objected to the introduction of rationalisation of the scheme. When it was contended before their Lordships that whatever alteration was effected in the conditions of service, was made, on the date when notice under Section 9A was given and that that being before the 13th December, there was no contravention of Section 33 of the said Act. While considering this contention their Lordships, after referring to Section 9A of the said Act, observed that what is important to notice is that in making this provision for notice the Legislature was clearly contemplating three stages, that the first stage is the proposal by the employer to effect a change, that the next change is when he gives the notice and that the last stage is when he effects change in the conditions of service on the expiry of 21 days from the date of the notice, that the conditions of service do not change, either when the proposal is made or the notice is given but only when the change is actually effected and that the actual change takes place when the new conditions of service are actually introduced. No doubt the petitioners' representative contended that this decision has no application to the facts of the present case but I feel that the principles laid down by their Lordships in this case as regards the notice to be given under Section 9A of the said Act can be applied to the present case also.

12. Now having held that if the respondent wanted to affect the change in the working hours a notice under Section 9A of the said Act should be given, next it has to be seen whether the notice issued in this case can be said to be a valid notice and whether giving effect to the changing hours from 6th February, 1970, is valid. As already stated a notice issued under Section 9A should mention not only the change in the working hours but also the place where the workmen are supposed to work. In this case as seen from Ex. W1 though it is a notice given in Form E and though the working hours have been mentioned, the place where the workmen should work is not mentioned. It is only by way of clarification pursuant to the letter Ex. W2 that the place where these two workmen should work was mentioned. As rightly contended by the learned counsel for the petitioners, Ex. W3 cannot be treated as a notice under Form E. So it is only Ex. W1 that has to be treated as a notice under Section 9A but this notice Ex. W1 is defective. As laid

down by their Lordships in *A.I.R. 1960 (Supreme Court) Page 879*, the first stage is proposal by the employer to effect the change. It is this proposal to effect the change that was given under Ex. W1 notice but the place where the workmen should work is not mentioned. The second stage as per the same decision is when the employer gives a notice. Now the employer has given the notice Ex. W1. The last stage as per the same decision is that when the employer effects the change in the conditions of service on the expiry of 21 days from the date of notice. As observed by their Lordships in the same decision the conditions of service do not stand changed either when the proposal is made or the notice is given but only when the change is actually effected. In this case Ex. W1 notice was issued intimating the proposed change in the working hours and actually the change in the working hours was given effect to from 6th February, 1970 as seen from Ex. W5. If Ex. W1 is a valid notice then it can be said that since the change in the working hours was given effect to from 6th February, 1970 that is after 21 days from the date of the notice Ex. W1, that is, 13th January, 1970. If Ex. W1 is held to be an invalid notice in view of the fact that the place where these two workmen should work between the working hours fixed therein is not mentioned, then Ex. W5 is of no use and such a change could be effected only by giving a fresh valid notice under Section 9A of the said Act. I am of the view that Ex. W1 is not a valid notice since the place where these two workmen were supposed to work during those working hours is not mentioned. No doubt the respondent has sent the reply Ex. W3 clarifying the place where these two workmen should work but this is only pursuant to the letter sent by the Union. So Ex. W3 cannot be treated as a notice under Section 9A of the said Act. Even if for a moment it is assumed that Ex. W3 can be treated as a notice under Section 9A of the said Act even then as contended by the learned counsel for the petitioners, the change should have been given effect to after 21 days from the date of Ex. W3 namely 17th January, 1970. But in this case it is seen from Ex. W5 that the change of working hours was given effect to from 6th February, 1970 itself. As laid down by their Lordships in *AIR, 1960 (Supreme Court) page 879*, the conditions of service do not stand changed when the proposal is made or the notice is given but only when the change is actually effected. In this case it is the working hours that had been changed and the change in the working hours would take effect only when the change is actually effected and now it is seen from Ex. W5 that the change was effected from 6th February, 1970. So it is clear from the evidence in this case that first of all Ex. W1 is not at all a valid notice and that even if Ex. W3 is taken to be a notice issued under Section 9A, inasmuch as the change in the working hours is effected even before the expiry of the 21 days from the date of Ex. W3, the notice cannot be said to be a valid notice. Such a change is contrary to the provisions of Section 9A of the said Act. So in any view of the matter the notice issued in this case is not a valid notice. So if the respondent wants to effect any change in the working hours the only course now open to the respondent is to give a proper and valid notice under Section 9A and then only give effect to the change in the working hours. So though the respondent has got the right to change working hours, in this case the action of the respondent in giving effect to the change of the working hours without giving a valid notice is not justified.

13. In the result I hold on the dispute referred that the action of the Management of the Singareni Collieries Company Limited in prescribing 7.00 a.m. to 1.00 p.m. underground and 3.30 p.m. to 5.30 p.m. surface as working hours to Sarvasri Neerla Lingalah and Ganapurapu Rajam, Survey Mazdoors of No. 2 Incline of Bellampalli Division is not justified in view of the fact that no valid notice was given under Section 9A of the said Act and so these two workmen cannot be compelled to follow this change in the working hours namely 7.00 a.m. to 1.00 p.m. underground and 3.30 p.m.

to 5.30 p.m. surface. Inasmuch as I have held that the Management has got the right to change the working hours and the place of work, it is open to the respondent to issue a fresh proper and valid notice as contemplated under Section 9A of the said Act if the respondent wants to change the working hours and the place of work.

AWARD is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal this the 11th day of February, 1972.

(Sd.) Illegible
Industrial Tribunal

APPENDIX OF EVIDENCE

Witnesses examined for Workmen.	Witnesses examined for Employers
W.W. 1 : Sri S. Nagaiah Reddy	M.W. 1 : J. Krishnamurthy.
W.W. 2 : Sri Neela Lingaiah	M.W. 2 : Sri M. R. Mohan Rao.

Documents exhibited for Workmen

- Ex. W1 . Letter dated 13-1-70 of Manager, S.C. Co. Ltd., No. 2 Incline Bellampalli addressed to the Tandur Coal Mines Labour Union, Bellampalli.
- Ex. W2 . Letter dated 16-1-70 of Sri S. Nagaiah Reddy, President of T.C.M.L. Union, Bellampalli addressed to the Manager, S.C. Co. Ltd., No. 2 Incline, Bellampalli.
- Ex. W3 . Letter dated 17-1-70 of Manager, S.C. Co. Ltd., No. 2 Incline, Bellampalli addressed to the General Secretary, T.C.M.L. Union, Bellampalli.
- Ex. W4 . Letter dated 2-2-70 of Sri Nagaiah Reddy, President, T.C.M.L. Union, Bellampalli addressed to the Regional Labour Commissioner (C) Hyderabad.
- Ex. W5 . Letter dated 4-2-70 of Manager, No. 2 Incline, Bellampalli addressed to Sri N. Lingaiah.
- Ex. W6 . Letter dated 5-2-70 of Sri N. Subba Raju, General Secretary T.C.M.L. Union, Bellampalli addressed to the Manager, No. 2 Incline, Bellampalli.
- Ex. W7 . Change of working hours, No. 2 Incline, Bellampalli Division issued by the Divisional personnel Officer on 30-6-1970.
- Ex. W8 . Transfer Order dated 3-12-69 of Dy. General Manager, Bellampalli in respect of N. Lingaiah and Ganapara Rajam.

Documents exhibited for Employers

- Ex. M1 . Working hours of N. Lingaiah issued by Manager No. 2 Incline, Bellampalli on 4-2-1970.
- Ex. M2 . Letter dated 8-2-71 of Under Secretary, Govt. of India, Ministry of Labour & Employment, New Delhi addressed to the General Secretary, S.C. Co., Ltd., Kothagudem, the Agent, Bellampalli Division of S.C. Co. Ltd., Bellampalli and the President, Tandur Coal Mines Labour Union, Bellampalli.

(Sd.) Illegible
Industrial Tribunal

[No. 7/11/70-LRII.]

New Delhi, the 14th April. 1972

S.O. 1020.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri Sarjoo Prasad Singh, Retired Judge of Patna High Court, Arbitrator, in the industrial dispute between the management of Pyrites, Phosphates and Chemicals Limited, Amjhore, District Shahabad, Bihar and their workmen, which was received by the Central Government on 3rd April, 1972.

ARBITRATION AWARD

By virtue of an arbitration agreement entered into between the management of Pyrites, Phosphate and Chemicals Ltd., Amjhore Mining Project on one side and its Staff Association known as P.P.C. Association on the other under section 10A of the Industrial Disputes Act, 1947, two disputes were referred to me by two separate notifications both dated 21st April, 1971 issued by the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment). The specific matters in dispute and the terms of reference with regard to the first dispute are the following:—

- Whether the demand of the P.P.C. Staff Association that the following category of technical staff of the P.P.C. Ltd., Amjhore Mining Project should be given the same scales of pay including interim relief, if any, as are applicable to their counter-parts working under N.M.D.C. is justified?
 - (1) Mechanical foreman.
 - (2) Head Mechanic.
 - (3) Mechanic.
 - (4) Electrical Supervisor.
 - (5) Head Electrician.
 - (6) Electrician.
 - (7) Mine Foreman.
 - (8) Mine Sirdar/Mate.
 - (9) Shortfirer/Blaster.
 - (10) Laboratory Assistant.
 - (11) Assistant Surveyor.
 - (12) Garage & Workshop Foreman.
 - (13) Mine Surveyor.
 - (14) Tyndal Supervisor.

2. If not what should be their proper scale of pay as on 1st January, 1970?

The specific matter in dispute and the terms of reference with regard to the second dispute are the following:—

- What should be the criteria for absorbing (as monthly rated regular staff) the monthly rated ad-hoc staff and the daily rated staff working since long against the post of monthly rated staff.
- Keeping in view the criteria, that may be decided by the Arbitrator, whether the demand of the P.P.C. Staff Association for regularising as monthly rated staff, all the ad-hoc staff and daily rated staff, is justified or not?

After the receipt of these notifications, I issued a notice to both the parties in June, 1971 to file their written statements by the end of the month. After several adjournments, however, both parties filed written statements before me setting out in detail their respective cases. Thereafter, I held inspection of the mining operation at Amjhore and allowed the parties to state their cases before me in my office at Patna and produce all relevant materials in support of their contention.

After the conclusion of the evidence and argument, I visited the Kiriburu Mine of N.M.D.C. to see the working conditions of the technical staff there.

In order to appreciate the nature of the disputes between the parties, it is necessary to describe briefly the nature of the project with which the Company is concerned. The Pyrites, Phosphates and Chemicals Ltd., Amjhore Mining Project was floated in March 1960 under the Companies Act by the Government of India for exploiting Pyrite deposits. The main object of the Company is the exploitation of Pyrites for the sale, use and manufacture of sulphuric acid and other associated products requiring such ore. Its Project Office is located at Amjhore—a place in the south of the district of Shahabad (Bihar) about 20 miles from Dehri-on-Sone (a broad gauge rail head) connected by a metalled road. Parallel to the road, there is a narrow gauge railway line operated by the Dehri-Rohas Light Railway Company Ltd. The mining operation for exploiting pyrite deposits is carried on a hill about 250-350 ft. above the foot of the hill. The office of the Company and the residential colony of the officers and staff are located on the plain about a mile and half from the mine's site.

Pyrite is an important substitute of sulphur. At present, it is used for the manufacture of sulphuric acid which is in great demand for the manufacture of fertilisers. There being no indigenous source, all the sulphur required in the country has to be imported. In order therefore, to save foreign exchange, the Indian Bureau of Mines explored Pyrite deposits in the Amjhore Mining Project and prepared an investigation and project report for working the deposit. Accordingly, the Amjhore Company is engaged in the exploitation of pyrite ores which is to be utilised in the first pyrite based acid plant set up at Sindri. The idea was to extract 400 tonnes of pyrites per day in the first instance and allow the mine to develop a capacity of 800 tonnes of pyrites ore per day with a view to use 200 to 300 tonnes in the sulphuric acid plant located by the Company adjoining the Fertilizer Factory of Sindri and to utilise another 100 tonnes in the Bihar Superphosphate Factory which also had been installed at Sindri. In order, however, to provide a better administrative and technical control, the sulphuric acid plant installed by the Company was transferred to the Sindri Unit of Fertiliser Corporation of India in April, 1968.

The mining operations in varied forms at Amjhore involve working underground, entry being through tunnels made by cutting the rocks. The workmen have to prepare their work sites inside the hill by blasting operations, erecting roof support inside the mine and then go on searching, blasting and extracting the pyrites. A number of adverse geological factors have also to be encountered during the actual mining operations, namely, frequent roof falls holding up normal mining operation, corroding effects on the equipments used in operation reducing their useful life due to acidic nature of mine water and damage to the clothes and footwear of the workers and the staff during the period of mining operation. The maximum number of persons working inside in all the sections of the mine in a shift is usually about 700.

The case of the P.P.C. Association is that having regard to the technical qualification of the staff and the nature of hazardous duty they have to perform every day, the pay and emoluments fixed for the various categories of the workers are quite inadequate. Their contention is that they have to work in more hazardous conditions obtaining at Amjhore in comparison with the conditions at N.M.D.C. (National Mineral Development Corporation) and payments made to the workmen there. According to them, the N.M.D.C. is engaged in the exploitation of iron ore and the operation is carried on the surface as a result of which the technical staff are not subjected to the hazards which the workmen at Amjhore have to face while working underground in a most

unhealthy suffocating and hazardous conditions. They assert further that on account of the weak strata of the roof, there is frequent roof fall exposing the workmen and the technical staff to grave risk of life. Furthermore, the water at the work site is acidic and corrosive with the result that it not only causes damage to the mining equipments but also to the clothes and footwear of the workers. They also maintain that on account of higher percentage of carbon-di-oxide nitrous fumes, sulphuri-di-oxide gas, there is damaging effect on the lungs of the workmen who have to devote eight hours inside the mines.

The case of the management is that the Company while framing its organisational chart adopted even better pay scales in respect of some of the staff than what had been recommended by the Second Central Pay Commission. That being so, taking into consideration the qualifications of the various categories of the staff and the nature of duties performed by them, it will appear that their pay scales compare favourably with the pay scales obtaining in similar mining undertakings including National Mineral Development Corporation (NMDC) and National Coal Development Corporation (NCDC). They maintain that wherever they found that there was justification for revision in the pay scales of the staff, they did so with effect from 1st January, 1970. According to them, the qualification and the experience prescribed for the posts of N.M.D.C. staff are higher and different from those prescribed for the counterpart designations in the P.P.C. Limited. Then again, the nature of mining operation carried on in N.M.D.C. and N.C.D.C. is different from the one carried on at Amjhore mining. Therefore, management's stand is that the pay scales of N.M.D.C. employees cannot be compared with the pay scales of the Amjhore employees. They have also laid stress on the fact that Amjhore Mining Project is incurring loss because it has not reached the rated capacity of production due to reduced off-take and other causes and as such the industry has not capacity to pay higher wages to its workers at the present moment.

With regard to the absorption of the monthly-rated, *ad-hoc* and daily-rated workers, the case of the Association is that this class of workers are thrown out of employment at the time of regular employment which is given to others although these workers have worked for a pretty long time and have acquired the requisite experience. The Association asserts therefore that these employees should be absorbed as and when a regular vacancy occurs.

The contention of the management is that temporary and *ad-hoc* appointments are made for a limited period so that the work may not suffer. The regular appointment according to them takes quite a long time, because before filling up of a vacancy notice has to be issued inviting applications through Employment Exchanges. Thereafter a Selection Committee is set up to make appointments giving preference to retrenched hands, Harijans and Scheduled Tribes. Their point is that the workers appointed on *ad-hoc* basis are generally not qualified even then as many as 30 temporary employees have been given regular employment when vacancies occurred and they were found to have acquired the requisite experience.

After several rounds of discussion in a number of sittings the parties agreed in regard to the pay scales of the eight categories of employees namely (1) Electrical Foreman/Electric Supervisor, (2) Head Electrician, (3) Electrician (4) Mechanical Foreman, (5) Head Mechanic, (6) Mechanic, (7) Garage and Workshop Foreman and (8) Laboratory Assistant. In consequence of this agreement they filed a joint petition on 14th September, 1971 duly signed by their representatives setting out in detail the terms of agreement with regard to the pay-scales of these posts and also with-regard to the conditions of the *ad-hoc* em-

ployments of three categories namely Driver, Laboratory Assistant and Work Sarkar as envisaged in a joint petition dated 7th September, 1971.

By virtue of a subsequent joint petition filed on 7th January, 1972 both parties have agreed to the procedure outlined in this petition with regard to the absorption of Shot-firer, Blaster and Clerks appointed on *ad-hoc* or daily rated basis. In view of these agreements the disputes regarding the pay scales of the 8 categories of employees as aforesaid and the criteria for absorbing the monthly rated, *ad-hoc* and daily rated staff and regularising the appointments of the existing incumbents are decided in terms of these agreements. Accordingly these agreements will form part of this award.

The point for decision now is whether the remaining six categories of employees namely, Mining Foreman, Mining Sardar/Mate, Shot-Firer/Blaster, Assistant Surveyor, Mine Surveyor and Tyndal Supervisor are entitled to the same scales of pay as were available to the employees of the corresponding categories of N.M.D.C. staff on 1st January, 1970.

While fixing the pay structure of a post, the factors usually taken into consideration are the qualification and experience required for recruitment to such a post, the nature of duties and responsibility involved therein and also the principle of fair comparison. On behalf of the management a statement in tabular form showing the qualification and experience required for each of the six categories of the posts and their respective pay-scales has been submitted. Qualification and experience and the pay-scales of the corresponding posts in N.M.D.C. have also been shown (*vide* Annexure 1 to the deposition of the Secretary of the Company, Witness No. 3). The contention of the management is that the qualification and experience prescribed for the first five categories of the posts are higher in N.M.D.C. as compared to those of the P.P.C. About the sixth category *i.e.* Tyndal Supervisor it is said that there is no corresponding post in N.M.I.C. Furthermore, management's stand is that the duties performed by the corresponding categories of the employees in Kiriburu mine worked by the N.M.D.C. are much different from those performed by the employees of Amjhore mine worked by P.P.C. for the reason that the former is an open cast mine whereas the latter is an underground mine and as such the posts of Amjhore mine under consideration are not comparable to the corresponding posts held by the employees of Kiriburu mine. Then again, according to the management, there is difference in the paying capacity of the two undertakings. The output of the iron ore mine of N.M.D.C. is linked up with the Steel Plants of India and also with the long term contract of supply of ore to Japan. The output of Amjhore mine on the other hand is saleable to Fertilizer Corporation of India at Sindri Sulphuric Acid Plant only and has got no other market. Over and above, the mines of N.M.D.C. are limbs of a well established iron ore industry while the Amjhore Pyrites mine is still in the stage of infancy and has to establish on a sound footing. As a matter of fact, P.P.C. has been running into loss, because of its low productivity and uneconomic sale price. The management therefore asserts that the demand of the Staff Association is not at all justified because it will add further financial burden which the Company will not be able to bear.

The contention of the Association on the other hand is that the duties of the technical staff are not only similar to but harder and more hazardous than those of their counterparts working in Kiriburu mine of N.M.D.C. and that the qualification and experience possessed by the technical staff of Amjhore mine are in no way inferior to those of their counterparts in N.M.D.C. According to the Association, in certain

respects the technical staff possess higher qualification than those working in Kiriburu mine. So far as the paying capacity of the P.P.C. is concerned, the staff Association has urged that the losses of P.P.C. are not due to any fault on the part of the staff or the workers but due to bad planning and adverse geological conditions. They assert that at any rate the management having agreed to apply the N.M.D.C. scale to most of the staff of Amjhore mine, the paucity of fund cannot be put forward as ground for rejecting the demand of a few individuals only.

The fact that the working conditions in an underground mine are more difficult and hazardous than those in an open cast mine has not been seriously challenged. In fact, Mr. H. Sanyal, witness No. 1 for the management has admitted in his evidence that it is easier to work in an open cast mine than in an underground mine. Mr. Kumar, Planning Officer of the Company, witness No. 2 for the management has said that it is easier to excavate and produce more in an open cast mine than in an underground mine. He has also admitted that the working conditions in an underground mine are somewhat difficult. Both these witnesses for the management, therefore, support the case of the Association to the effect that the working conditions in Amjhore mine are more difficult and hazardous as compared to the conditions obtaining in an open cast mine. As mentioned earlier, the Association asserts that roof fall is frequent in Amjhore mine, the water percolating there is acidic and corrosive and that percentage of oxygen is below normal, apart from the existing of poisonous gases which adversely affect the health of the underground employees. These facts have not been controverted. My own impression after having visited the two mines is also the same namely that the working conditions in Amjhore mines are far more difficult than those in Kiriburu mines. I have no hesitation to hold, therefore, that though the working conditions of an open cast mine may not be comparable to those of the underground mine, a worker or a technical staff working underground in Amjhore mine is exposed to greater hazards and has to work under more difficult conditions. It is also clear that an underground allowance of a small sum not exceeding Rs. 15/ per month payable to the employees cannot be deemed to be an adequate compensation for the hazardous and difficult conditions of working. The demand of the staff for higher wages, therefore, cannot be said to be unjustified.

The question is whether the demand of the technical staff can be disallowed on the ground of Company's incapacity to pay higher wages. Management's argument is that the cost of production of pyrite ore in Amjhore mine works at Rs. 2,24/ per tonne, but the Fertilizer Corporation, which is the only buyer of this product, is not prepared to pay anything more than Rs. 90/ per tonne on the ground that the price of imported sulphur for the manufacture of sulphuric acid is much less than the price demanded by the P. P. C. for their product of pyrite ore. The Company is, therefore, running into loss. It is true that the sale price of pyrite ore is less than the cost of its production nevertheless the management has agreed to pay higher wages to more than 16 to 17 categories of employees according to the scale of N. M. D. C. That being so, the denied of upward revision of the pay scales of only six categories involving only 59 employees on the plea of lack of funds does not appear to be sound. As these persons represent categories just above the lowest, they do observe an upward revision of their pay in line with the other category of the employees and the financial burden as a result of this revision is not likely to be heavy. During my visit to Kiriburu mines, I learnt that the production of iron ore in this unit also had greatly diminished due to lack of demand and as such it was also running into loss.

As regards the qualification and experience required for each category of the post under consideration, it will be found that there is not much difference between the qualification and experience prescribed for similar categories of employees in N.M.D.C. as is clear from the following analysis:—

Mine Foreman.

The pay scale of a Mine foreman in P.P.C. is Rs. 300—450 as fixed on 1st January, 1970. The corresponding scale in N. M. D. C. on the aforesaid date was Rs. 325—575/-. The qualification required for a Foreman in N. M. D. C. is that the candidate should be a matriculate and holder of Foreman's certificate of competency, besides having three years' experience. The candidate for appointment as Mine Foreman in the P. P. C. should also hold a Foreman's certificate of competency and should have three years' experience. Diploma holders in mining and having experience of underground mechanised mine and working in thin deposit are preferred. It is also to be noted that the certificate of competency should be of unrestricted nature which denotes that the holder of this certificate possesses higher qualification than the holder of a restricted certificate as in the case of N.M.D.C. On behalf of the Management it has been argued that in N. M. D. C. matriculation is an essential qualification whereas in the P. P. C. a Mine Foreman need not necessarily be a matriculate. It will, however, be found that all Foremen of P. P. C. are matriculates and majority of them are even diploma holders. Furthermore, a non-matriculate cannot obtain an unrestricted certificate of competency which is an essential qualification for appointment as Foreman in P. P. C. So far as the duties and responsibilities are concerned, they are according to the metalliferous and mines regulations which are common to both the undertakings. As indicated earlier there is no denying the fact that the duties of a Foreman in the P. P. C. are more hazardous as compared to those of his counterpart in the N.M.D.C. That being so, it cannot be said that the qualification and experience required by N. M. D. C. for this post are higher than those required by P. P. C. nor can it be said that the duties and responsibilities of the former are higher than in the case of the latter.

The Management has quoted the pay-scales of similar posts obtaining in some other undertakings, such as Hindusthan Zinc Uranium Corporation, Saphai Mica Company. The duties and responsibilities of the workers and the working conditions there are much different from those of the P. P. C. That being so, they cannot serve as a useful guide. Thus taking an overall view, I consider it fair and equitable to fix the same scale for the Foreman of P. P. C. as was available to the Foreman of N. M. D. C. on 1st January, 1970.

Mining Sardar/Mate.

The pay scale of Mining Sardar in P.P.C. is Rs. 175-275/- whereas in N.M.D.C. it is Rs. 250-380/-. The duties and responsibilities of a Mining Sardar are similar to those of a Mining Foreman under whom he has to work. He is also required to be a holder of unrestricted certificate of competency. Before sitting for the Mining Sardar's examination, he must have an experience of 3 years and for appointment as a Mining Sardar in P.P.C. he should have an experience of another 3 years as a Mining Sardar. The qualification prescribed for a Mining Sardar in N.M.D.C. is 6 years. It would thus appear that there is hardly any difference in the qualification and experience required for such a post in the two undertakings. As discussed earlier, the duties and responsibilities of a technical staff working in P.P.C. are more difficult and hazardous than his counterpart in any other mine especially in an open cast mine run by N.M.D.C. That being so, there should be no objection to the Mining Sardar being allowed the

same scale of pay as was available to his counterpart in N.M.D.C. on 1st January, 1970, that is to say, Rs. 250-380/-.

Mine Surveyor.

The existing scale of pay for this post in P.P.C. is Rs. 350-550/-. In N.M.D.C. the scale of this post is Rs. 350-900/- which is the demand of the Association. According to the management, the qualification and experience prescribed for a Surveyor in N.M.D.C. is much higher than what is prescribed for a Surveyor in Amjhore mine in as much as the Mine Surveyor in N.M.D.C. has to apply geodetic corrections and take excavation measurements in open cast mine whereas in Amjhore mine excavation measurement is done with the help of a measuring tape. On behalf of the Association, on the other hand, it has been contended that the qualification and experience required of a Mine Surveyor in P.P.C. are higher than those prescribed in N.M.D.C. A Mine Surveyor of the P.P.C. should have passed matriculation with science subjects, whereas in N.M.D.C. this qualification is not essential. Then again, the Mine Surveyor in P.P.C. should possess unrestricted certificate of competency, which is not the case in N.M.D.C. It is said that for passing an examination for obtaining unrestricted competency certificate, one has to appear in two papers, whereas for passing the examination for obtaining restricted certificate one has to appear in one paper only. It is said further on behalf of the Association that the holder of an unrestricted certificate of competency has to acquire the knowledge of geodetic survey otherwise he cannot get that certificate. In actual practice also, the knowledge of geodetic survey is essential in P.P.C., because in geodetic survey triangulation survey also is included and the measurement done by a P.P.C. Mine Surveyor is by triangulation method. That being so, it is not correct to say that the nature of work done by a Mine Surveyor in N.M.D.C. is more difficult than that of a Surveyor in P.P.C. The Association also produced the copy of an advertisement for the post of Mine Surveyor published at the instance of the Hindusthan Zinc Ltd. which is a Government of India undertaking. According to this advertisement the pay-scale offered for the post is Rs. 350—900 and the qualification prescribed is the same as is required of a Surveyor in P.P.C. Thus, taking into consideration all these facts and circumstances, I am inclined to allow the same scale as was available in N.M.D.C. on 1st January, 1970.

Assistant Mine Surveyor

The scale of pay of this post in P.P.C. is Rs. 210—425. In N.M.D.C. it is Rs. 326—575. The qualification prescribed for an Assistant Mine Surveyor to work in P.P.C. is that he should have an unrestricted survey certificate of competency according to Metalliferous and Coal Mines Regulations and that he should have three years' experience as well. A comparison of the experience and qualification prescribed for an Assistant Mine Surveyor in the two undertakings as shown in Annexure 1 to the deposition of witness No. 2 for the management will show that the experience and qualification required for this post in P.P.C. are higher than those required in N.M.D.C. On behalf of the Association it is said that the present incumbent of the post is highly qualified inasmuch as he not only holds unrestricted certificate both for Coal Mines and Metal Mines but also holds competency certificate of a Foreman and Overman. While dealing with the case of Mine Surveyor, it has been observed that his duties are more arduous. That being so, the duties of an Assistant Mine Surveyor can also be said to be no less arduous. Therefore there should be no difficulty in allowing him the same scale of pay as was being given to his counterpart in N.M.D.C. on 1st January, 1970.

Shot Firer/Blaster

The pay scale of Shot Firer in P.P.C. is Rs. 130—245. In N.M.D.C. the pay scale is Rs. 150—205. The association wants the scale of N.M.D.C. to be made applicable to the Shot Firer even though the maximum of the scale is about Rs. 40 less than the maximum of the P.P.C. scale. The average of P.P.C. scale is Rs. 130.95 whereas the average of N.M.D.C. scale works at Rs. 176.36. If the latter scale is applied, the incumbent is likely to get a little more as dearness allowance and it is perhaps for this reason that the Association prefers the pay scale available in N.M.D.C. There is no basic difference between the nature of work done by a Blaster working in N.M.D.C. and the one working in P.P.C. For deep hole blasting, which is done in an open cast mine, no special skill is necessary. In an underground mine, deep hole blasting is not possible. But the qualification required of a Blaster for both kinds of mines is the same. As has been indicated above, the working conditions in an underground mine in respect of blasting operation also are more difficult. That being so, there should be no difficulty in allowing the demand of the P.P.C. staff in respect of this post.

Tyndal Supervisor

He is in the pay scale of Rs. 110—139. The comparable post of Tyndal Supervisor in N.M.D.C. is that of a Rigger Sardar. The nature of duties performed by a Sardar is the same as performed by a Tyndal Supervisor in Amjhore Mine. In N.M.D.C. the Rigger Sardar was in the pay scale of Rs. 125—155 in January, 1970. From April, 1970, however, there was an upward revision of the scale. The qualification and experience required of a Tyndal Supervisor in P.P.C. are that he should be literate and should have not less than 10 years' experience of supervision work. In N.M.D.C. the Rigger Sardar is required to be literate and should have 8 years' experience. The Tyndal Supervisor has to exercise greater skill in shifting the machineries in underground whereas the Rigger Sardar of N.M.D.C. does not face this difficulty because he has to work in an open cast mine. It is also significant to note that a Tyndal Supervisor belongs to the engineering section of the Company and the entire engineering staff has been given the same pay scale as is being given to the similar staff in N.M.D.C. That being so, there should be no difficulty in allowing the Tyndal Supervisor the same scale of pay as was being paid to a Rigger Sardar in N.M.D.C. on 1st January, 1970.

Interim Relief.

I now pass on to consider the question of interim relief. The employees of the P.P.C. Limited, Amjhore, are given dearness allowance according to the scale of the Central Government. The demand of the Association is that they should be given interim relief also on the pattern of the Central Government employees. The contention of the Management is that they are given interim relief to those employees only whose pay-scale is equal to or lower than the scales of the comparable categories of the Central Government employees. According to them, the employees of the P.P.C. Ltd., whose pay-scales are higher than that of the comparable category are not entitled to any interim relief. This contention is based on the assumption that the interim relief is a part of the pay. I do not think that this assumption is correct. In their report on the interim relief the 3rd Central Pay Commission has no doubt mentioned that the interim relief is not to be taken either as part of pay or D.A. as it was in the nature of *sui generis*. But it is obvious that the interim relief was granted as an interim measure because of the rise in the price of consumers' goods without giving much thought to the total impact of the price rise and other relevant factors on the existing pay-scales of an employee. All the same the motivating factor was to grant relief temporarily till the determination of the appropriate pay-structure and amount of dearness allowance due to rise in the all India consumer

price index. This is also confirmed by the fact that the second interim relief was granted as soon as there was a rise of 10 points in the consumers price index over the index number when the first interim relief was given. I am of the view, therefore, that the interim relief is to be treated as part of D.A. rather than part of pay and as such all the categories should be given interim relief according to the pattern of the Central Scale.

The Association has urged that metalliferous regulations laying down the qualification and competency of the posts in question came into existence 4 years after the fixation of the pay scales of the Central Government employees on the recommendation of the Second Pay Commission. That being so, the pay-scales fixed by the said Commission can have no relevance to the pay-scales and applicable to the employees of P.P.C. Ltd. Furthermore, according to the association, no scales were fixed by the Second Pay Commission appropriate to the qualification and experience of the P.P.C. employees. Association's further argument is that the management of P.P.C. Ltd., has given interim relief to certain categories of employees even though their pay-scales do not correspond with the scales fixed by the Second Pay Commission. In fact some employees, though drawing higher scales of pay than the comparable scale of the Second Pay Commission, have been granted interim relief by the Management, such as Medical Officer, Watchman, Work Sarkar, Under Manager, etc. The management has assigned certain reasons for having done so. Be that as it may, the fact remains that these employees are in receipt of interim relief even though their pay scales are higher. The Association has also cited the instances of several undertakings of Government of India showing that they have given interim relief to their employees according to the recommendation of the 3rd Pay Commission irrespective of their pay-scales being higher or lower as compared to the scales fixed by the Second Pay Commission. All these facts and circumstances support my view that all the employees in question are entitled to the benefit of the interim relief as per scale laid down by the 3rd Central Pay Commission.

To sum up, my award is as follows:—

Dispute No. 1—The pay-scales of the eight categories of the staff, namely, Mechanical Foreman, Head Mechanic, Mechanic, Electrical Supervisor, Head Electrician, Electrician, Laboratory Assistant and Garage and Workshop Foreman will be as mutually agreed upon and incorporated in the joint petition filed before me which forms part of this award. So far as the remaining six categories are concerned, their pay-scales will be as follows:—

Mine Foreman	Rs. 325-575/—
Mine Sardar/Mate	Rs. 250-380/—
Mine Surveyor	Rs. 350-900/—
Assistant Mine Surveyor	Rs. 325-575/—
Shot Fire Blaster	Rs. 150-205/—
Tyndal Supervisor	Rs. 125-155/—

These pay-scales are to be made applicable with effect from 1st January, 1970. All the 14th categories of the staff are also entitled to the dearness allowance and interim relief according to the scales of the Central Government.

Dispute No. 2—The criteria for absorbing the monthly rated, *ad hoc* staff, and the daily rated staff working since long against the posts of monthly rated staff have been mutually agreed upon by the parties as mentioned in the two joint petitions, one filed on 7th September, 1971 and the other on 7th January, 1972. These petitions also form part of this award and the procedure laid down in them will be

followed for absorbing the aforesaid staff in the regular category. The manner in which the appointments of the present *ad hoc* employees will be regularized have also been indicated in the joint petition filed by the parties and the same is to be treated as part of this award. Both the disputes are disposed of accordingly.

Sd/- SARJOO PRASAD SINGH,
Arbitrator.
28-3-1972.

BEFORE SHRI SARJOO PRASAD SINGH, RETIRED JUDGE OF THE HIGH COURT OF JUDICATURE AT PATNA AND HONOURABLE ARBITRATOR

In the Matter of arbitration under Section 10-A of the Industrial Dispute Act, 1947.

BETWEEN:

The Management of Pwites, Phosphates and Chemicals Limited, Amjhore Mining Project, District Shahabad.

AND

Their Monthly-Rated Workmen represented by P.P.C. Staff Association, Amjhore.

Most respectfully sheweth:

1. That the representatives of the Management and the P.P.C. Staff Association held joint discussions to arrive at a mutual settlement to decide the scale of pay and the qualifications and the experience of the disputed categories of the workmen and also the dispute in respect of the regularisation of the *ad hoc* employees (Monthly-rated and Daily-rated) as per Arbitration Agreement No. I and II respectively.

2. Arbitration Agreement No. I.

The Management stated that they have accepted in principle the scale of pay of the Engineering categories of monthly-rated workmen as that obtaining in N.M.D.C. and have introduced such scale as Grade I scale. The Management has fixed the qualifications and the length of experience not less than that prescribed for the equivalent posts in N.M.D.C., but the details of the experience have been modified to suit the mining conditions obtaining at Amjhore. The Management expressed its willingness to discuss the marginal modification, if any, in the experience required for the above posts.

Sd/- T. N. Jaggi.
Sd/- Negible.
14-9-1971.

The discussions were, thus, held for fixing the qualifications and the experience of the following posts:—

- (1) Mechanical Foreman.
- (2) Head Mechanic.
- (3) Mechanic.
- (4) Electrical Foreman/Electrical Supervisor.
- (5) Head Electrician.
- (6) Electrician.
- (7) Garage and Workshop Foreman.

As a result of this discussion the Management and the P.P.C. Staff Association have worked-out an agreed list of qualifications and experience for the above posts. They have also further agreed to make marginal alterations in the requirement of the nature of experience for the present incumbents.

Both the parties further discussed about the qualifications and experience required for the post of Laboratory Assistants and have agreed that no comparison will be drawn with that of N.M.D.C.

The jointly agreed list of qualifications and experience for the above eight posts is hereby being filed before the Honourable Arbitrator.

(3) Arbitration Agreement No. II

The Management stated that it cannot agree to the regularisation of the *ad-hoc* employees (monthly-rated and daily-rated) without any reference to the existence of any post. It further stated that the work of the Extension Project and the Ghogha Mine has been stopped and as such, requirement of personnel has decreased and thus the employees who are working temporarily against these posts cannot be considered by the Management. However, if any regular vacant post is there the Management would consider its absorption as it has done in the past.

The agreed minutes of the discussions between the Management and the PPC Staff Association on 7-9-71 at Amjhore are hereby filed before the Honourable Arbitrator *vide* which an agreement has been reached in respect of the dispute of *ad-hoc*/Daily rated drivers, Laboratory Assistants and Works Sirkar.

The Honourable Arbitrator is requested to accept the agreed list in the matter of Arbitration Agreement No. 1 and the agreed Minutes of the Discussions in the matter of Arbitration Agreement No. II.

On behalf of the
Management

Sd/- T. N. JAGGI
14-9-71

Chief Mining Engineer
Sd/- V. RAMARATNAM
Secretary

On behalf of the P.P.C. Staff
Association

Sd/- K. D. THAKUR
14-9-71

General Secretary
Sd/- RAMJI PANDEY
Member

PATNA,
Dated the 14th Sept. 1971

List of pay scale jointly agreed by P.P.C. Staff Association and the Management of Pwites, Phosphates and Chemicals Limited

Sl. No.	Designation with revised scale of pay	Qualification and experience
	<i>Engineering</i>	<i>Essential :</i>
1	Electrical Foreman/ Electrical Supervisor (Rs. 350—25—575)	(i) Elect. Supervisor's certificate of competency as approved by Director General of Mines Safety.
		(ii) Diploma in Electrical Engineering from a recognised institution with five years experience.
		OR
		I.T.I. (Elect.) with six years experience as Head Electrician or Chargeman.
		OR
		Matric with seven years experience.
		OR
		Non-matric with ten years experience.

Sl. No.	Designation with Revised scale of pay	Qualifications and experience	Sl. No.	Designation with Revised scale of pay	Qualification and experience
2	Head Electrician (Rs. 200—10—290— EB—15—320)	<i>Essential :</i> (i) Elect. Supervisor's certificate of Competency for working in the mine as approved by D.G.M.S. (ii) Diploma with two years experience. OR Matriculates with six years experience. (i) Wireman's Permit for HT & MP apparatus as used in the mines and as approved by D.G.M.S. for work in the mines below ground surface. (ii) Non-matric with eight years experience. OR Matric/I.T.I. (Elect.) with six years experience. OR Diploma with two years experience OR Supervisor's Certificate with one year's experience. NOTE.—For the present incumbent they should have obtained a minimum of 25% of the stipulated experience for the post after obtaining the Wireman's Permit. For the present incumbents who do not possess the High Tension Permit it was decided, as below : (a) Those who have completed the probation satisfactorily will be provisionally placed in Grade I for a period of two years i.e. up to 30-9-73. They will not earn increment until they have passed High tension Certificate. During the above period given on the merit of the case, if he fails to qualify in H.T. Wireman's Permit, he will be reverted to Grade-II but his fixation in this grade will be done after giving him due increments in this scale for the period he was provisionally placed in grade-I. (b) Those who are still on probation will get the facility of clause (a) above after satisfactory completing the probation period.	5	Head Mechanic (Rs. 200—10—290— EB—15—320). OR (Rs. 200—10—290— EB—15—380). (Subject to checking from N.M.D.C.)	Diploma with two years experience in Maintenance, Repairs, and overhauling of Machineries. OR I.T.I. with five years experience in overhauling and repairs of machineries. OR Literate with nine years experience in repairs and overhauling of machineries.
	OR (Rs. 200—10—290— EB—15—380). (subject to checking from NMDC).		6	Mechanic (Rs. 168—280)	Literate with nine years experience in the trade. OR I.T.I. with six years experience in the trade. OR Diploma with two years experience in the trade.
	Electrician (Rs. 168—8—256— EB—6—280).		7	Garage & Workshop & Foreman (Rs. 350—575)	Qualification and experience same as that for Mechanical Foreman. NOTE.—In future the recruitment to this post will be done with Mechanical Foreman in grade—Rs. 350—575. If the present incumbent does not accept the condition to do the work of Mechanical Foreman when asked for, this post will be operated in the scale of Rs. 325—15—475.
4	Mechanical Foreman (Rs. 350—25—575).	Diploma in Mechanical Engineering with three years experience. OR I.T.I. with seven years experience.	8	Laboratory Assistant	The pay-scale as offered by Second Pay Commission has been accepted by the Company for this post and it has been agreed that no comparison will be drawn with that of N.M.D.C.

NOTES:—(1) Head Electrician's designation is not there in NMDC. As such, the scale of pay and the qualification for the post have been fixed after considering the pay scale and the qualifications for the post of Supervisor (in the scale of Rs. 200-320) and Chargeman (Elect.) (in the scale of Rs. 250-380).

(2) Head Mechanic's designation is not there in N. M. D. C. As such, the scale of pay and the qualifications for the post have been fixed after considering the pay-scale and the qualifications for the post of Senior Mechanic (in the scale of Rs. 200-320) and Chargeman (in the scale of Rs. 250-380).

(3) Those present incumbents who do not possess the requisite qualification and experience as prescribed above, for the revised pay-scales, they will be placed in Grade I on the following conditions and principles:—

- They should have completed probation period satisfactorily.
- They should have three years service in Grade II.
- They should not have received punishment for misconduct during the last one year.

(4) GRADE-I means Revised Pay Scale and Grade II means existing pay-scale of P.P.C. Ltd. as on 31st December, 1969.

(5) Those incumbents who do not possess the requisite qualifications and experience on 1st January, 1970 but have obtained such requisite qualifications afterwards, will be placed in Grade-I from the date they obtain the requisite qualifications and experience.

(6) Those present incumbents appointed after 1st January, 1970 will also be placed in Grade-I as and when they possess or obtain the requisite qualifications and the experience, without prejudice to their completion of probation period and those who do not possess will be left to remain in the pay scale given to them at the time of appointment and their case will be considered under notes 3 and 5 above which ever is earlier.

(7) Experience of the present incumbents for a post requiring the possession of the statutory qualifications, will also be counted for the period during which they were authorised to work against the higher post.

(8) Non-matric means literate also.

(9) Experience required for Electrical Foreman is after obtaining the Electrical Supervisor's Certificate. In case of the present incumbents, they should have minimum 1/3rd of the experience after obtaining Electrical Supervisor's Certificate and the balance 2/3rd as Electrician/Head Electrician. Electrical Supervisor would be designated as Electrical Foreman.

(10) Diploma means three years diploma from any recognised institute or Polytechnic.

(11) Those incumbents who are not placed in Grade I by virtue of the principles stated in Note-3 above on 1st January, 1970 will deem to be placed in Grade I from the date they become eligible for such Grade I or from the date they obtain the requisite qualifications and experience as stated in Note-5 above which ever is earlier.

(12) In case of Mechanics, the requisite experience will also be counted as Mechanical Helper (Semi-skilled) in reputed firms.

(13) In case of Mechanical Foreman, the requisite experience for the present incumbents will be counted as Mechanic, but 40 per cent of the experience should be in supervisory capacity.

(14) For the post of Head Mechanic, the requisite experience for the present incumbents will be counted for in the post of Mechanic or Fitter also.

(15) In case of Electrician, experience of Elect. Apprentice/Electrical Helper (Semi-skilled) in reputed concerns will be counted.

(16) For the post of Head Electrician, the requisite experience for the present incumbents will be counted for in the post of Electrician out of which 25 per cent should be atleast after obtaining the requisite Wireman's Permits (Both H.T. and M.P.).

(17) Those incumbents (Electricians) whose confirmation is withheld because they do not possess the requisite Wireman's Permit for underground work, they will be confirmed, and allowed the benefit of Grade-I from the date they have obtained the requisite part/parts, which have the approval of Director, Mines Safety (Electrical) for underground work in Medium pressure.

(18) It is agreed that the following new posts will be created:—

- | | |
|---|---|
| (a) Chargeman (Electl.)
Rs. 250—10—290—15—380. | (a) Diploma in Electrical Engineering.
(b) Elect. Supervisor's Certificate of Competency.
(c) 3 years experience. |
|---|---|

OR

I.T.I. Certificate with Elect. Supervisor's certificate and 4 years experience as Head Electrician.

- (18) (b) Chargeman
(Mechanical)
(Rs. 250—10—290—15—380).

Diploma in Mechanical Engineering with one years' experience as Head Mechanic.

OR

I.T.I. with 3 years' experience as Head Mechanic.

- (19) H.T. means "High Tension" and M.P. means "Medium Pressure"—voltage at which the electricity is consumed.

Representatives of the
Management

Representatives of the
P.P.C. Staff Association.

Sd/- T. N. JAGGI
14-9-71
Chief Mining Engineer.

Sd/- A. DE
President.

Sd/- V. RAMARATNAM
Secretary.

Sd/- V. K. VERMA
Vice President.

Sd/- K. D. THAKUR 14-9-71
General Secretary.

Sd/- RAMJEE SINGH
Joint Secretary.

Sd/- N. K. PRASAD
Treasurer.

Sd/- RAMJI PANDEY
Member.

Sd/- S. C. KOHLI
Member.

Sd/- S. K. VERMA
Member.

Sd/- G. C. MAZUMDAR
Member.

AGREED MINUTES OF THE DISCUSSION IN RESPECT OF DISPUTE OF AD HOC EMPLOYEES BETWEEN THE REPRESENTATIVES OF P.P.C. STAFF ASSOCIATION AND THE MANAGEMENT OF PYRITES, PHOSPHATES AND CHEMICALS LIMITED ON 7-9-1971 AT AMJHORE.

PRESENT :

- | | |
|--|--|
| (1) Representatives of the
Management | Representatives of P.P.C. Staff
Association |
| (a) Shri B. R. S. Bhatnagar,
Managing Director | (a) Shri A. De,
President |
| (b) Sri T. B. Jaggi,
Chief Mining Engineer | (b) Sri K. D. Thakur.,
General Secretary |
| (c) Shri I. Kumar,
Planning Officer | (c) Shri V. K. Verma,
Vice President |
| (d) Shri M.L. Rajak,
Administrative Officer
and others | (d) Shri Ramji Singh
Joint Secretary |

(1) *Ad Hoc Drivers (Daily-Rated-10 and Monthly Rated-3).*

It was explained by the Management that there are 30 sanctioned posts for the drivers and out of which seven posts are only vacant. The management agrees to promote seven daily-rated/ad-hoc appointees in order of their seniority on the post and the remaining persons will be transferred to Saladipura or other Projects against the vacancies existing there. If there is no vacancy, they would continue to remain on the present daily-rated posts.

The Association agrees to the above view-point of the management.

(2) *Laboratory Assistant—1 No.*

It was explained that the post of Laboratory Assistants cannot be filled-up till March, 1972 after which a decision will be taken for their further continuance if the post is continued beyond March, 1972. As such it was agreed to offer temporary appointment to the ad-hoc employees, viz., Shri N. K. Singh upto March, 1972 and thereafter he will be regularised in the post if the post is continued beyond March, 1972.

The Association accepts the above position.

(3) *Works Sirkar—1 No.*

It was stated by the Management that there is one vacant post of Works Sirkar in the junior scale. Management agrees to regularise Shri Satya Narain Prasad in this scale and the Association agrees to this view-point.

(4) In respect of other ad-hoc employees Shot Firer and Clerks it was agreed to discuss at a later date.

Sd./- T. N. JAGGI

Sd/- A. De.
7-9-71

AGREED MINUTES OF THE DISCUSSION IN RESPECT OF DISPUTE OF AD HOC DAILY RATED EMPLOYEES BETWEEN THE REPRESENTATIVES OF P.P.C. STAFF ASSOCIATION AND THE MANAGEMENT OF PYRITES, PHOSPHATES & CHEMICALS LTD., ON 7-1-1972 AT PATNA.

PRESENT

Representing the Management Representing the workmen
(P.P.C. Staff Association.)

1. Sri T. N. Jaggi,
Actg. Managing Director

2. Sri I. Kumar,
Planning Officer.

3. Shri V. Ramaratnam,
Secretary

1. Shri L. P. Singh,
President

2. Shri S. K. Verma,
Vice President

3. Sri Rajendra Prasad,
General Secretary

4. Sri Ramji Singh,
Member

5. Sri A. De,
Member

6. Sri K. P. Yadav,
Member

7. Sri Bindhyachal Singh,
Member

As per item 4 of the agreement arrived on 7th September, 1971 regularisation of other ad-hoc/daily-rated employees i.e., Shot Firer and Clerks was discussed, after discussion, the following agreement is arrived at:—

Shot Firer/Blaster:

It was decided that the Blasters will be absorbed against vacancies, if any, under general quota, but if

there is any Scheduled Caste/Schedule Tribe candidate, he will be absorbed against reserved quota for Scheduled Caste/Scheduled Tribe provided they possess requisite experience for the post. The requisite experience for these workmen will be considered from the date of passing Blaster's/Mate's certificate, as a special case. For deciding seniority for the purpose of appointment, it was agreed that management will interview these ad-hoc/daily-rated Blasters who possess the experience for the post and a panel will be drawn for absorption from amongst them. Those who do not qualify for regular appointment will be kept on ad-hoc basis against vacant posts, if any, till they qualify for the post. Their seniority will also be fixed on the basis of interview.

Clerks:

It was agreed that Shri Ram Dayal Singh who is working as daily-rated Clerk since long will be regularised against first un-reserved LDC's post. It was also agreed that if the post is available on date, he will be absorbed on LDC's grade from the date of settlement. In respect of other ad-hoc employees, it was agreed that other things being equal, they will be given preference in future selections for the post of LDC.

During discussion, it was agreed that the appointment orders to be issued as per settlement dated 7th September, 1971 to the ad-hoc/daily-rated employees will be made effective from the date on the ad-hoc/daily-rated post on the date of settlement and has been continued as such till date. In case an ad-hoc employee has started working after the date of settlement, he will be offered appointment as per this agreement from the date of his joining.

Sd/- T. N. JAGGI
7-1-72

Acting Managing Director.

L. P. SINGH,
7-1-72.

President.

[No. L-29013/2/71-LRIV.]

New Delhi, the 17th April 1972

S.O. 1021.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited, Post Office Bellampalli (Andhra Pradesh) and their workmen, which was received by the Central Government on the 11th April, 1972.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD:

PRESENT:

Shri P. S. Ananth, B.Sc., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE NO. 30 OF 1970:

BETWEEN:

Workmen of Singareni Collieries Company Limited, P. O. Bellampalli.

AND

The Management of Singareni Collieries Company Limited, P.O. Bellampalli.

APPEARANCES:

Shri K. G. Kannabhiran, Advocate, for Workmen.
 Shri M. Shyam Mohan, Personnel Officer,
 Singareni Collieries Co. Ltd., Bellampalli for
 Management.

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its Order No. 7/19/69-LRII dated 14th August, 1970 referred the following dispute under section 10 (1) (d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for adjudication by this Tribunal, namely,

"Having regard to the nature of duties performed by Sarvasri K. Bhavani Shanker, V. V. K. David, D. Balasubramaniam, K. K. Nair, John Benton and K. Venkata Raju, Number Takers, Central Screening Plant, Mandamari Division, Singareni Collieries Company Limited, whether the management of Singareni Collieries Company Limited, Bellampalli is justified in not placing the workmen in Grade II (Clerical). If not, to what relief these workmen are entitled and from what date?"

The petitioners are the Workmen of Singareni Collieries Company Limited, Bellampalli Division and the respondent is the Singareni Collieries Company Limited, Bellampalli Division. This reference was taken on file as Industrial Dispute No. 30 of 1970 and notices were issued to the parties. The petitioners filed their claims statement and the respondent filed its counter.

2. The contentions of the petitioners in their claims statement in short are these:—The nature of the duties performed by K. Bhavani Shanker, V. V. K. David, D. Balasubramaniam, K. K. Nair, John Benton, and K. Venkata Raju are (1) Noting the number of empty wagons soon after they arrive and they are noted in the empties particulars register (2) Maintaining the loads despatch register (3) Noting the number of detained loaded and empty wagons (4) Issuing Memos to the station master regarding the loads accumulated and placement of empties to Kalyani Khani 3 & 5 inclines (5) Give daily statement of yard position to the station master showing the detained empties and loaded wagons and particulars of loading and booking (6) Mainlain statement regarding water supply to the pit at the Kalyani Khani No. 1 Incline. In other pits of Kothagudem Division the above said jobs are being carried on by the detention clerks who are only Grade II Clerks. Thus the petitioners are performing the jobs of detention clerk and their duties are of higher responsibility. In Singareni Collieries the wages are being paid as per the jobs performed by the Workmen. For example if a filler works as a coal cutter, he is paid the wages of coal cutter. Hence the nature of the job is the main factor for the payment of appropriate wages. Though their designation is number taker, their nature of job is of higher responsibility and corresponds to clerical Grade. The job of a number taker is a semi-clerical job. He used to write the number of wagons and give to the detention clerk. Hence may semi-illiterate and unqualified persons were doing the jobs of number takers. Previously non-matriculats were appointed for this job and they were given the scale of Rs. 43 to Rs. 82.00 only. But in the case of the present six petitioners they are performing jobs of higher responsibility and skill and out of the six workers four are matriculates and all have got good experience. After the decision of the Industrial Tribunal (Central) Hyderabad in I.D. No. 51 of 1964 dated 4th April, 1966 all the Number Takers of Kothagudem and Yellandu who were doing the jobs of Detention Clerks were redesignated as Detention Clerks and Grade II was given to them even after this word

by the Industrial Tribunal. The Management did not implement this in Mandamari Division and Bellampalli Collieries. The petitioners by their representation dated 5th March, 1969 made it clear that the Management had adopted an irregular procedure in giving appropriate grades to the Seniors and whereas the juniors have been given Grade II from the very beginning but the petitioners were kept in grade III since six years, even though they are qualified for Grade II. So the Management has adopted differential treatment which amounts to discrimination.

3. The contentions of the respondent in its counter in short are these:—The duties performed by the petitioners as detailed in paragraph 1 of the claims statement are denied. Their work is confined to the Screening Plant Yard duties and they work under the instructions of Assistant Foreman and the Junior Engineer. The Screening Plant maintains a number of other clerks. All the duties pertaining to this category of workmen are in the nature of semi-clerical duties which they have been performing during and after the Wage Board Recommendations. The jobs performed at Kothagudem Division pertaining to the Screening Plant are identical. The grade of the petitioners in the Pre-Wage Board was Rs. 43.00 to Rs. 82.00. In accordance with the recommendations of the Wage Board equivalent grade or Rs. 180-5-230-7-265 is given to the petitioners. The Management has followed the recommendations of the Wage Board as regards the application of the new Grades which are shown equivalent to the grades under the Majumdar Award and there is no discrepancy whatsoever. There is no designation as Detention Clerks shown in the Wage Schedule No. P.49/2807/200 dated 27th January, 1968 of the Singareni Collieries Company Limited. The Staff working in the Screening Plant on identical jobs are given the identical Grade III. There is no higher responsibility by the petitioners by the very nature of duties performed. The Number Takers all over the collieries are placed in Grade III since the inception and if there is any justification for Grade II either by virtue of nature of duties, skill or responsibility, there would have been claims for placing them in higher grade. There were two clerks by name K. Joseph and Y. Luke who were originally working at the Manway and Magazine respectively in Grade III at the time of implementation of the Coal Award in 1956 and they were later transferred to Coal Screening Plant No. 5 Incline Kothagudem to work as Detention Clerks in the semi-clerical Grade III. Subsequently on the representations of the Union the Management agreed to place magazine clerks, Manway clerks, Stores Clerks etc. in Grade II with retrospective effect from the date of implementation of the Coal Award i.e. 26th May, 1956. Circular was accordingly issued on 6th October, 1960 revising the grades of such clerks from this Grade III to Grade II. It was made specific in the Circular, that this revision shall not affect the other staff such as Munshies, Tracers, Belt Inspectors, Number-Takers, Loading Inspectors, Pit Issuers, Oil Issuers and Area Clerks who were all working in Grade III and that they shall continue to be governed by the said clerical grade. By virtue of the fact that the two workmen mentioned as working as Magazine and Manway Clerks at the time of implementation of the Coal Award, they were also allotted Grade II to which they would have been entitled had they remained in their original jobs after implementation of the Coal Award. As they were surplus clerks in Grade II their services were utilised by the Company as Detention Clerks instead of making fresh recruitment. The emoluments and grade which a workman was getting had to be protected, though they are required to perform duties in a post of lower grade. There was another Detention Clerk by name Samuel in Grade III in the Coal Screening Plant on whose behalf the Union raised a dispute for placing him in Grade II on par with the other two clerks. When the matter was eventually referred for adjudication, the Industrial Tribunal, Hyderabad by its Award dated 4th April, 1966 gave a decision in favour

of the workmen. Even though the Management implemented the Award, which involved only one workman, the findings of the Tribunal did not apply to the issues involved now. This cannot therefore form a precedent to contend that the said jobs of Number Takers are being carried out by Grade II clerks at Kothagudem. The Union itself had admitted that Number Taker is a semi-clerical job for which Grade III is appropriate. During the Clerical interviews held in 1964 four out of six petitioners were matriculates and they were specifically selected for the posts of Number Takers in Grade III and they have accepted the terms and conditions of appointment and joined the service of the Company. As regards John Benton, who was a non-matriculate, he was appointed specifically as Number Taker Grade III and K. Venkataraju, who is also unqualified and working as Watchman was promoted as Number Taker Grade III by virtue of Settlement dated 19th October, 1964 and posted at Mandamari. The very designation of Number Taker is different when compared to the duties of the Clerk. It is denied that the petitioners are performing jobs of any other responsibility and skill. The petitioners are bound by terms of appointment and Grade II clerks who were appointed by virtue of the terms of contract cannot be compared to the petitioners who were in Grade III since the inception of their appointment. There is no discrimination made by the Management. In filling up the posts that were created afresh, candidates who applied were interviewed and a higher grade was given to the deserving. Promotion is a managerial function and the Management alone is competent to find out the suitability or otherwise of the candidates interviewed. The claim by the workmen is virtually for promotions. The claim of the petitioners is spurious. The proceedings are pending before this Tribunal in I.D. No. 30 of 1967 and the claim is not justifiable.

4. Now the dispute that is referred to this Tribunal for adjudication is whether the respondent is justified in not placing present six petitioners in Grade II (Clerical) is justified having regard to the nature of the duties performed by them?

5. The persons with reference to whom the present reference had been made are K. Bhavani Shankar, V. V. K. David, D. Balasubramaniam, K. K. Nair, John Benton and K. Venkata Raju. In the course of this award a reference is made to these persons as the petitioners and reference is made to the Singareni Collieries Company Limited, Bellampalli as respondent. The petitioners were first appointed as Number Takers, K. Balasubramaniam, V. V. K. David and K. K. Nair are examined as W.W. 3, W.W. 2 and W.W. 1 respectively. Ex. W1 is the letter sent to W.W. 1 asking him to appear for selection with reference to this application for the post of Clerk. After this interview W.W. 1 was appointed as Number Taker as seen from the office order of appointment Ex. W2 dated 12th April, 1965 so far as W.W.2 is concerned, Ex. M2 dated 28th October, 1964 is the office order appointing him as Number Taker. So far as W.W.3 is concerned Ex. M3 dated 28th October, 1964 is the office order appointing him as Number Taker. Ex. M9 is the office order dated 20th September, 1965 appointing John Benton as Number Taker and Ex. M10 is the office order dated 24th October, 1964 appointing K. Venkata Raju as Number Taker. All these six persons were appointed as Number Takers to work at Screening Plant, Mandamari Division. So far as John Benton is concerned he was transferred to Kothagudem group of Mines at his own request as seen from the letter Ex. M12 dated 19th September, 1969 and K. Venkata Raju also had been transferred to Kothagudem group of Mines at his own request as seen from the letter Ex. M11 dated 25th September, 1969. So far as W.W. 1, W.W. 2, W.W. 3 and D. Balasubramaniam are concerned they continued to work in Mandamari Division. The petitioners in this case

sent their representation the original of Ex. W3 dated 7th August, 1967, stating that they had been performing the duties of weigh bridge clerk and other duties which were being performed by Grade II clerks and so they should be absorbed as Grade II clerks. Since the respondent did not accede to their request their case was taken up by the Singareni Collieries Workers Union and they sent the letter the original of Ex. W4 dated 9th May, 1968, to the Regional Labour Commissioner (Central) Hyderabad, requesting him to intervene and relax the petitioners in Clerical Grade II. Since the conciliation proceedings failed finally the present reference was made. Now it has to be seen whether the action of the respondent in not placing the petitioners in Grade II (Clerical) is justified?

6. First of all it is contended by the respondent's representative that the present claim of the petitioners amounts to asking for promotion and that such a claim cannot be entertained because it is the managerial function. He relied upon the decision reported in *VISHNU SUGAR MILLS v. THEIR WORKMEN* [1960 (II) LLJ, page 272 (Supreme Court)] wherein their Lordships observed that promotion to a higher post is the exclusive function of the Management and that if a new post is created and a new man is appointed it cannot be said that the status of the other person is in any way prejudicially affected. He also relied upon the decision reported in *I.G.N. & RY. CO. Ltd. v. ITS EMPLOYERS* [1961 (II) LLJ, page 372 (Supreme Court)] wherein their Lordships observed that the Tribunal recognised the position that promotion is a management function being a matter of internal administration where the employer has exclusive jurisdiction to make its decision. He also relied upon the decision reported in *BROOKE BOND (INDIA) v. THEIR WORKMEN* [1963 (I) LLJ, page 256 (Supreme Court)]. In that case their Lordships observed that it is true that though promotion could normally be a part of the Management's function, if it appears that in promoting one employee in preference to another, the Management has been actuated by malicious considerations or that the failure to promote one eligible person amounts to an unfair labour practice that would be a different matter but that in the absence of *mala fides*, normally it must be left to the discretion of the management to select which of the employees should be promoted at a given time subject of course to the formula to which their Lordships have just referred. He also relied upon the decision reported in *GENL. SECY., N.G.B. EMP. UNION v. MGR., N.G.B. BANK LTD.* (1964 F.L.R. page 399) wherein their Lordships referred to the principles laid down by their Lordships in 1963 (I) LLJ, page 256. He also relied upon the decision reported in *BROOKE BOND (INDIA) LTD. v. THEIR WORKMEN* [1966 (I) LLJ, page 402 (Supreme Court)] wherein their Lordships observed that the Tribunal recognised that normally the question of promotion was a management function and had to be left mainly to the discretion of the management which had to make a choice from among the employees for promotion. Their Lordships also further observed that generally speaking, promotion is a management function, but that it may be recognised that there may be occasions when a tribunal may have to interfere with promotion made by the Management where it is felt that persons superseded have been so superseded on account of *mala fides* or victimization and that if any industrial tribunal finds that promotions have been made which are unjustified on the ground of *mala fides* or of victimization, the proper course for it to take is to set aside the promotions and ask the Management to consider the cases of superseded employees and decide for itself whom to promote, except of course the person whose promotion has been set aside by the tribunal. On the other hand it is contended by the learned counsel for the petitioners that it is not a case of promotion and that the petitioners are not asking for any promotion but that their contention is that the fitment made by

the respondent is not correct and that promotion is different from fitment and so the decisions relied upon by the respondent(s) a representative have nothing to do with the present case.

7. As rightly contended by the respondent's representative, if it is found that the present claim of the petitioners is virtually a claim for promotion then as laid down by their Lordships in the decisions relied on by the respondent's representative, the tribunal cannot entertain such a claim because the question of giving promotion is purely managerial function and the Tribunal can interfere with the promotion made only if it is proved that there had been any *mala fides* or victimization. So far as the present case is concerned, there is absolutely no evidence about any *mala fides* or victimization. All that the petitioners contended is that they also should be placed in Grade II (Clerical) as they are doing the same duties as the detention clerks in Kothagudem Division who have been placed in Grade II. So if it is found that the petitioners' claim amounts to promotion then only it can be said that the Tribunal cannot interfere with the order of the respondent.

8. According to the petitioners the duties performed by them are noting the number of detained loaded and empty wagons, issuing memos to the Station Master as regards the load accumulated and placement of empties to Kalvan Khani 3 & 5 Inclines, furnishing daily position of the yard position to the Station Master and maintaining statement regarding water supply to the pilot and maintaining statement regarding water supply to the pilot at the Kalyan Khani No. 1 and that all these jobs are also done in other pits of Kothagudem Division by detention clerks only and that since the detention clerks of Kothagudem Division were placed in Grade II, the petitioners also should be given the same Grade II. In their claim statement itself the petitioners stated that the job of a number taker is a semi-clerical job. W.Ws. 1 to 3 speak about the nature of work done by them. W.W.1 says that in Kothagudem Number Takers are detention clerks, that they are in the grade of Rs. 48.00 to Rs. 100.00 that it is Grade II, that they perform the same duties, that prior to the Wage Board and for some time after the recommendations of the Wage Board were implemented they were in the same grade as himself and others and that about a year prior to his deposing in this case those persons were given the grade commencing from Rs. 205.00 to Rs. 355.00, that previously there was some clerical staff in Grade III at Kothagudem doing the same duties as himself and that now they are designated as Detention Clerks and placed in a higher grade i.e. Grade II of Rs. 205.00 to Rs. 325.00 and that on 4th April, 1966 an award was passed by the Industrial Tribunal, Hyderabad, declaring the Detention Clerk at Kothagudem to be entitled to Grade II and that award relates to W.W. 4. He says after the implementation of the Wage Board he was placed in the Grade of Rs. 180.00 to 265.00. According to him his Grade was not fixed correctly then. He says that the set up is junior Engineer, Assistant Foreman, Loading Inspector, Number Taker and Weigh Bridge Clerks. He also says that loading inspectors' grade was Rs. 43.00 to Rs. 182.00 and that it might be that they are placed in grade of Rs. 180.00 to 265.00. He himself says that there is no designation of Detention Clerk in Mandamarri. He says that their duties are not semi-clerical, though in the claims statement itself it is stated that their duties are semi-clerical. So far as W.W.4 is concerned the suggestion put to him is that W.W.4 was working as a Manway Clerk previously and he says that he does not know.

9. W.W.2 says that according to him he is eligible for Grade II because the Tribunal held that Detention Clerks are eligible for Grade II and since they are doing the same duties as Detention Clerks. He admits that there is no change in the duties performed by him and others before and after the Wage Board implementation. Though he also says that the duties

they perform are not semi-clerical, as already stated in their claim statement, they have admitted that their duties are semi-clerical. He says that the Weigh Bridge Clerk was getting Rs. 48.00 to Rs. 200.00 previously. He also says that there are Loading Inspectors who were also in the Grade of Rs. 43.00 to Rs. 82.00. He says that he was called for the interview for the Clerical Grade and that he was appointed as Number Taker. He says that he claimed for the higher grade of Rs. 48.00 to Rs. 100.00 as he thought that he deserved as he was a matriculate and experience person. W.W.3 says that the Retention Clerks at Kothagudem are given Rs. 205.00 to Rs. 325.00 and so they are demanding the same grade as that of the Detention Clerk. He says that at Mandamarri there are Loading Checkers, that previously their Grade was Rs. 43.00 to Rs. 82.00, that all the loading checkers and Number Takers who were in the grade of Rs. 43.00 to Rs. 82.00 were placed in the grade of Rs. 180.00 to Rs. 265.00. He also says that Loading Checkers are responsible for loading wagons. According to him the Loading Checkers act according to their instructions and at the same time he says that they are not subordinate to him.

10. So the evidence of W.Ws. 1 to 3 taken as a whole shows that because on a prior occasion this Tribunal held in the case of W.W.4 that the Detention Clerk at Kothagudem is entitled to Grade II, since they are also doing the same duties as Detention Clerk, though they are designated as Number Takers, they should also be placed in Grade II. Now so far as W.W.4 is concerned he says that he was working as Detention Clerk from 1956 to 1964, that he was in the grade of Rs. 43.00 to Rs. 82.00 when he was working as Detention Clerk but other persons who were working along with him as Detention Clerks were in the grade of Rs. 48.00 to Rs. 100.00, that he was not given that grade and so they raised a dispute, that there was conciliation but it failed and so this matter was referred to the Industrial Tribunal and that he was given the grade of Rs. 48.00 to Rs. 100.00 as per the award of this Tribunal in I.D. No. 51 of 1964 and that after the Wage Board he was also placed in the grade of Rs. 205.00 to Rs. 325.00. So from his evidence it is seen that though he was working as Detention Clerk along with others he was given the grade of Rs. 43.00 to Rs. 82.00 whereas the other working along with him were given grade of Rs. 48.00 to Rs. 100.00 and so the dispute was raised and that finally an award was passed in his favour giving him the grade of Rs. 48.00 to Rs. 100.00 and that subsequently when the Wage Board Recommendations were implemented he was given the grade of Rs. 205.00 to Rs. 325.00. But so far as the petitioners are concerned it is seen even from the order of appointment that they were appointed only in the grade of Rs. 43.00 to Rs. 82.00. So the petitioners now cannot contend that because W.W.4 was given Grade II as per the recommendations of the Wage Board they should also be given Grade II because by putting forth this claim they are in effect asking for the higher grade of Rs. 48.00 to Rs. 100.00 that was given to W.W.4 whereas they were given the grade as only Rs. 43.00 to Rs. 82.00 even at the time when they were appointed as Number Takers.

11. As regards the nature of the duties done by the petitioners M.W.1 (Shri N. Srinivasa Rao) who is the junior Engineer working in the Screening Plant says that there is no designation as Detention Clerk in his Screening Plant, that the Detention Clerks are at Kothagudem, that those Detention Clerks would be asked to work in the weigh bridge where coal is weighed, that the duties of the Number Takers in his Screening Plant are that the moment the wagons come they will copy down the number of the wagons, that afterwards they will give placement for the different grades of coal, that after loading the wagons they will give the loads slip to the railways showing the wagon

number carrying the coal, that the duties of these Number Takers are the same as before even after the passing of the Wage Board Award, that Ex. M4 is the Number Taking Register, that Ex. M5 is the Load Slip Register, that Ex. M6 is the R.R. Register, that the work involved is copying the wagon numbers and other particulars from one register to the other register in the registers Ex. M4 to M6, that these duties of Number Takers are in the nature of semi-clerks, that Ex. M7 is the circular issued by the Company showing the revision of monthly grades i.e. monthly paid staff, that Ex. M7 does not refer to Number Takers, that he worked in Kothagudem from 1962 to 1969, that the loading checkers were being paid in the scale of Rs. 43.00 to Rs. 82.00 and their equivalent grade as per the Wage Board Award is Rs. 180.00 to Rs. 265.00, that these loading checkers asked for higher grade and they raised a dispute, that this dispute was referred to this Tribunal, that this dispute was disposed off by this Tribunal, that the dispute was that they claimed the grade of Rs. 245.00 to Rs. 440.00, that the work of loading checker is almost identical with the duties of Number Taker and they overlap. He also says that the petitioners have nothing to do with the coal branch work. It is elicited from him that the Number Taker writes the forwarding note also, that after filling up of the forwarding note by the Number Taker it would be given to the railway clerk and that the railway clerk will prepare the R.R. He says that even in Kothagudem the railway clerk will furnish these details. He also says that the Number Taker will prepare a weigh sheet which is forwarded to the coal branch. He says that the loading checkers will attend to the work of Number Taker only if the Number Takers are not available and that the loading checker's primary duty is to load the wagons and that he maintains a separate register. So his evidence shows that the work of loading checkers is almost identical with the duties of the Number Taker and that they overlap and that when the loading checkers asked for the grade of Rs. 245.00 to Rs. 440.00 and when this dispute was referred to this Tribunal, this Tribunal did not grant that relief and that the duties of Number Taker are in the nature of semi-clerks.

12. M.W.2 (Shri M. Chandra Mouli) is working as Junior Engineer in C.S.P. (Coal Screening Plant) Kalvan Khani No. 1 Incline. He says that W.W.1 is working at Kalyan Khani No. 1 C.S.P. He says that there are three Assistant Foremen, Five Clerks, three Loading Checkers and One Number Taker in No. 1 Incline which is under his charge. He says that the duties of Number Taker in his C.S.P. are that they have to take the numbers of the empty wagons and prepare the yard position, that after Benton and Venkata Raju were transferred to Kothagudem, W.W.1 was put in charge of making forwarding notes, that actually the Number Takers were in excess to the actual needs in his C.S.P., that now with the loading checkers they are managing the work of Number Takers, that mostly it was only a duplication of work and so now they are managing with one Number Taker and that the Number Takers are not asked to maintain any registers about any detention or demurrage. He also says that there are certain designations in Mazumdar Award as regards the grade Rs. 43.00 to Rs. 82.00 and that they are loading checkers. He also says that the Number Takers have nothing to do with the weigh bridge and weighment.

13. So the evidence of this witness is that the Number Takers have to merely take the numbers of the empty wagons and prepare the yard position and that they are not asked to maintain any register about detention and demurrage and that they have nothing to do with the weigh bridge and weighment

and that they are not maintaining any registers except the R.R.C.C. and that the loading checkers and weigh bridge clerks are doing the work of number takers and that actually it was only a duplication of work. The evidence of M.W.1 also is that the work of loading checkers is almost identical with the duty of the number takers and that the loading checkers asked for the grade of Rs. 245.00 to Rs. 440.00 and that this Tribunal did not grant that relief. It is also seen from the evidence in this case that the duties of the detention clerks are not exactly similar to the duties of the number takers and as already stated simply because W.W.4 was placed in Grade II it does not mean that the petitioners also should be placed in Grade II, especially when it is seen that when originally the petitioners were appointed they were placed in the grade of Rs. 43.00 to Rs. 82.00 but not in the grade of Rs. 48.00 to Rs. 100.00. So far as W.W.4 is concerned, it is seen that when he was working as detention clerk and when others who were similarly working were given the grade of Rs. 48.00 to Rs. 100.00, he was given only the grade of Rs. 43.00 to Rs. 82.00 and that is the reasons why the dispute was raised and W.W.4 succeeded in getting the grade of Rs. 48.00 to Rs. 100.00. It is also seen from Ex. M7 that when the revision of monthly grades was made by the respondent in the year 1960 in respect of some categories of clerks it was made clear in that Circular that though the grade for those persons were revised from Rs. 43-3-64-EB-3-82 to Rs. 48.3-54.4-EB-5-100, so far as the Number Takers Loading Inspectors and others mentioned in the Circular are concerned they would continue to be in the grade of Rs. 43-3-64-EB-3-82. As already stated the petitioners were entertained only as Number Takers in the Grade of Rs. 43.00 to Rs. 82.00. The evidence in this case also shows that the work done by the Number Takers is only a semi-clerical work. It is seen from Chapter VIII at page 76 of the report of the Central Wage Board for the Coal Mining Industry Volume I that while fixing the Wage Structure for the clerical staff Mazumdar Tribunal fixed three grades of clerks as Grade I, II and III and that later on the Labour Appellate Tribunal revised only the scales of pay for the three grades of clerks and that the Wage Board while retaining the same three categories revised the scale of pay for Grade III as Rs. 180-5-230-7-265 and for Grade II as Rs. 205-7-275-10-385. Now it is seen that considering the nature of the work done by the Number Takers the petitioners have been fixed in Grade III and it is seen that the scales of pay for Grade III as fixed in the Award is from Rs. 180.00 to Rs. 255.00. The original scale of pay for Grade III Clerk was Rs. 43.00 to Rs. 82.00 and so when implementing the recommendations of the Wage Board the petitioners were fixed in Grade III instead of in Grade II. On a consideration of the whole evidence in this case, I am satisfied that the petitioners cannot have any complaint for not being placed in Grade II (Clerical).

14. For all the aforesaid reasons I hold on the dispute referred for adjudication that having regard to the nature of the work performed by the petitioners as Number Takers, the respondent is justified in not placing them in Grade II (Clerical). In as much as I have held that the action of the respondent in not placing the petitioners in Grade II (Clerical) is justified, the petitioners are not entitled to any relief.

Award is passed accordingly.

Dictated to the Stenographers, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal, this the 6th day of March, 1972.

(Sd.) Illegible
Industrial Tribunal,

APPENDIX OF EVIDENCE :

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD

PRESENT:

Shri P. S. Ananth, B.Sc. B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION No. 145 OF 1971:

IN

INDUSTRIAL DISPUTE No. 30 OF 1967:

BETWEEN:

Shaik Imam, Filler Somagundem No. 3 Incline, Bellampalli Collieries—*Petitioner*.

AND

Management of Singareni Collieries Co., Ltd., Bellampalli, Agent Bellampalli Division,—*Respondent*.

APPEARANCES:

Shri P. T. Thomas, Divisional Personnel Officer, S. C. Co. Ltd., Mandamari & Ramakrishnapur Division, for the Management.

None present for Workmen.

AWARD

This is a petition filed by the petitioner under Section 33A of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for his reinstatement into service.

2. In his petition the petitioner contended that even before the expiry of the time given for submitting his explanation the services were terminated without conducting any enquiry.

3. The respondent is the Singareni Collieries Company Limited, Bellampalli Division. In its counter it is contended that the respondent did not contravene the provisions of Section 33(2)(b) of the said Act, that the respondent is not a workman concerned in the dispute in I.D. No. 30 of 1967 and that the discharge simpliciter is entirely different from any termination due to misconduct and that the petitioner is only a badli filler.

4. When the matter was posted to 28th February, 1972 for enquiry the petitioner chose to remain absent, but he had sent his petition for withdrawal through Shri P. T. Thomas, Personnel Officer, requesting that he may be permitted to withdraw his petition on the ground that he wanted to represent to the Management his case for favourable consideration. In view of this petition there is no need for further enquiry in this case. Since it is now stated in the petition for withdrawing the petition that the respondent wants to represent to the Management his case or favourable consideration, I feel that necessary permission may be granted to the petitioner so that he may negotiate with the Management and obtain favourable orders. So the petitioner is permitted to withdraw his petition.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal, this the 1st day of March, 1972.

(Sd.) P. S. ANANTH,
Industrial Tribunal.
[No. 7/21/67-LRII.]

Witnesses examined for Workmen :	Witnesses examined for Employers :
W.W. 1 : K. K. Nair	M. W. 1 : N. Srinivasa Rao
W.W. 2 : V. V. K. David	M. W. 2 : M. Chandra Mouli
W.W. 3 : K. Bhavani Sankar Rao	
W.W. 4 : M. J. Samuel	
Documents exhibited for Workmen :	Documents exhibited for Employers :
Ex. W1 : Interview letter dt. 24-9-1964 by the Company for the post of a clerk to appear before the Selection Committee.	Ex. M 1 : Appointment order dt. 28-10-64 in respect of Balasubramanyam.
Ex. W2 : Appointment Order dt. 12-4-65 of K.K. Nair for the post of Number Taker.	Ex. M 2 : Appointment Order dt. 28-10-64 in respect of V. V. K. David.
Ex. W. 3 : Application dt. 7-8-67 under grievance Proceeding by Number Takers to the General Manager S. C. Co. Ltd. Kothagudem.	Ex. M 3 : Appointment Order dt. 28-10-64 in respect of Bhavani Sankar Rao.
Ex. W. 4 : Lr. dt. 9-5-68 by Sri B. Gangaram, Vice-President of S. C. Workers Union to the Regional Labour Commissioner (C) Hyderabad to hold conciliation proceedings.	Ex. M 4 : Number Taking Book.
Ex. W. 5 : Letter dt. 16-9-71 of Agent, Ramakrishnapur addressed to Junior Engineer, K.K. No. 1 C.S.P.	Ex. M 5 : Load slip book.
	Ex. M 6 : R. P. Beck.
	Ex. M7 : Circular dt. 6-10-60 revision of monthly grades.
	Ex. M 8 : Appointment Order dt. 15-4-65 in respect of K.K. Nair.
	Ex. M 9 : Appointment Order dt. 24-10-64 in respect of John Berton.
	Ex. M. 10 : Appointment Order dt. 24-10-64 in respect of K. V. Raju.
	Ex. M. 11 : Letter dt. 25-9-69 of Sri K. Venkata Raju addressed to General Manager, S. C. Co. Ltd., Kothagudem, not claiming the seniority while at Kothagudem.
	Ex. M. 12 : Lr. dt. 19-9-1969 of John Berton addressed to General Manager, S. C. Co. Ltd., Kothagudem, not claiming the seniority while at Kothagudem.

(Sd.) Illegible
Industrial Tribunal.
[No. 7/19/69-LRII.]

S.O. 1022.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad in a petition filed under Section 33A of the Act by Shri Shaik Imam, Filler, Somagundem No. 3 Incline, Bellampalli Collieries against the management of Bellampalli Division of Singareni Collieries Company Limited, Post Office Bellampalli (Andhra Pradesh), which was received by the Central Government on the 11th April, 1972.

S.O. 1023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of Ramagundam-I Division of Singareni Collieries Company Limited, Post Office Godavari Khani (Andhra Pradesh), and their workmen, which was received by the Central Government on the 11th April, 1972.

**BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD**

PRESENT:

Shri P. S. Ananth, B.Sc. B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE No. 34 OF 1971

BETWEEN:

Workmen of Singareni Collieries Company Limited, Ramagundam Division-I.

AND

Management of Singareni Collieries Company Limited, Ramagundam Division-I.

APPEARANCES:

Shri M. Bhasker Rao, Secretary, Singareni Collieries Workers Union, Godavari Khani, for Workmen.

Shri M. Shyam Mohan Personnel Officer, Bellampalli, for Management.

AWARD

The Government of India Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its Order No. 7/39/70-LR.II, referred the following dispute for adjudication by this Tribunal, namely,

"Whether the Management of Ramagundam-I Division (workshop) of Singareni Collieries Company Limited was justified in refusing to employ Shri D. Shanker, Electrician Category IV as fitter category V in contract making job from May, 1969-70. If not, to what relief is he entitled?"

This order was received by this Tribunal on 12th April, 1971 and it was taken on file as Industrial Dispute No. 34 of 1971 and notices were issued to the parties.

2. The petitioners in their claims statement contended that Sri D. Shanker although designated as electrician had been working as contact making fitter and so he is eligible to new Category V, that when the Union represented his case the Management brought one Sri Ayazuddin a new Category V fitter from No. 3 Incline by reducing the strength which is an unfair labour practice and so Sri D. Shanker should be given new Category V with effect from 15th August 1967.

3. The respondent in its counter contended that Sri Shanker was appointed in Category III (old) in the year 1963 and promoted to Category V (old) as electrician in 1966, that after the trademen agreement with the Singareni Collieries Workers Union Sri Shanker continued to remain as Category V electrician till the date of implementation of new wage scales, that it is not correct to say that Sri Shanker has been working as contact making fitter right from 1963, that the management is not aware of the oral representation made by the Union, that at the time of the implementation of trademen agreement, the Union could have raised a dispute in this regard but that was not done, that the first representation was made only under letter dt. 12/17th November, 1969, that on being represented in November, 1969 the matter in issue was

referred to the top management as Sri Shanker happened to be an electrician, that the Management was advised that suitable fitter be posted and so Sri Ayazuddin was posted, that contact making fitter was found to be extra at that time to the requirements of Godavari Khani No. 3 Incline due to abandonment of one seam during 1968 which fact was notified to the Director General of Mines Safety, Dhanbad, and that Sri Shanker is correctly designated and paid correct wages.

4. When the matter came up for enquiry on 25th January, 1972 a representation was made that the talks of compromise were going on and so the matter was posted to 1st March, 1972. On 1st March, 1972 the parties filed a memorandum of compromise showing the terms of settlement and the compromise was recorded. In view of the compromise arrived at an award is passed in terms of the compromise. A copy of the memorandum of compromise shall be attached to the award.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal this the 1st day of March, 1972.

(Sd.) P. S. ANANTH,
Industrial Tribunal.

**BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
HYDERABAD**

IN THE MATTER OF I.D. 34/71.

BETWEEN:

The Workmen represented by Singareni Collieries Workers' Union, Godavari khani (PO) Karimnagar Distt. Andhra Pradesh.—Workmen.

AND

Singareni Collieries Company Limited—Employers.
Memorandum of Compromise filed by the Parties.

The Government of India referred the case of workman Sri D. Shanker, Electrician, Workshop to this Honourable Industrial Tribunal (Central) Hyderabad in respect of his promotion and this has registered as I. D. 34/71.

2 The Government of India vide their letter No. 7/39/70-LR.II, named the following terms of reference "Whether the Management of Ramagundam 1 Division (Workshop) of Singareni Collieries Company Limited was justified in refusing to employ Sri D. Shanker, Electrician, Category IV as Fitter Category V in contact making job from May, 1969?" It not to what relief is he entitled?"

3. In order to have continued cordial relation, mutual discussions were held between the management and union representatives. After protracted discussion the parties have arrived at the following settlement on 20th January, 1972.

Terms of Settlement:—

- (i) The Management have agreed to promote Sri D. Shanker, Electrician, Category IV to work as Fitter Category V in contact making at Workshop with effect from 1st January, 1972.
- (ii) Workman representative had agreed to these terms of settlement in full and final settlement of the claim of the workman in the dispute.
- (iii) The parties, therefore pray that the Hon'ble Tribunal be pleased to pass an award in terms of this compromise.

The parties as in duty bound, shall ever pray.

Dated at Godavarikhani, this 20th day of January, 1972.

For workmen:

(Sd.) M. BHASKARA RAO, Secretary.
Singareni Collieries Workers' Union,
Godavarikhani.

For Employers:

(Sd.) M. R. MATHAYE, Agent,
Singareni Colliery Co. Ltd.,
Ramagundum Division I.

(Sd.) P. PAPA RAO, Divisional Personnel Officer,
Singareni Collieries Co. Ltd.,
Ramagundum Division I.

(Sd.) SHYAM MOHAN,
Personnel Officer,
Singareni Collieries Co. Ltd.,
Bellamapalli.

V. Mesesses:—

1. (Sd.) CH. SREERAMAMURTHY.
2. (Sd.) S. T. RAVINDRAN.

(Sd.) P. S. ANANTH,
Industrial Tribunal.
[No. 7/39/70-LRIL.]

New Delhi, the 18th April, 1972

S.O. 1024.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Equitable Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen, which was received by the Central Government on the 15th April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 56 OF 1971

PARTIES:

Employers in relation to the management of
Equitable Coal Company Limited,

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi—Presiding Officer.

APPEARANCES:

On behalf of Employers—Sri Monoj K. Mukherjee,
Advocate with Sri H. R. Das Gupta, Person-
nel Officer.

On behalf of Workmen—Sri Arun Kumar Lal
Gupta, Advocate.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/70/70-LRIL, dated the 19th April, 1971, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the management of Equitable Coal Company

Limited Post Office Dishergarh, District Burdwan and their workmen, to this Tribunal, for adjudication:

"Whether having regard to the duties performed by Shri S. P. Dey, Clerk Grade-II, the management of Equitable Coal Company Limited, Post Office Dishergarh, District Burdwan is justified in not placing him in Grade I as per Wage Board recommendations? If not, to what relief is the workman entitled and from what date?"

2. On behalf of the workman Shri S. P. Dey a statement or case was filed before this Tribunal on 27th May, 1971, by the Union stating *inter-alia* as follows: Shri S. P. Dey, the workman has been serving in the Zemindary department in the central office at Dishergarh under the management. The Zemindary department is entrusted with charge of looking after all the immovable properties of the Company and to do everything required for retaining the said properties in terms of various title deeds, documents and contracts. The Zemindary department is fully responsible for making punctual and periodical calculation of the rents and royalties payable and receivable by the Company and for ensuring their timely payment and/or collection as the case may be. One B. D. Pandey used to do all the said work regarding calculation, realisation and payment of rent and royalties in the Zemindary department and he was also responsible for all necessary accounts, account book, ledgers for the said work and in view of the nature and importance of the work, performed by Shri B. D. Pandey he was placed in clerical grade I as per award of Coal Tribunal when the same was implemented. As per recommendations of the Wage Board Shri Pandey was placed in clerical grade I as fixed by the Wage Board and Sri Pandey retired from service of the company with effect from 18th November, 1968. Although designated as an Accounts clerk, the job performed by Sri Pandey required special skill and devotion and he was responsible for securing timely payment of various rents, royalties payable by the company to their superior Landlords for avoiding liabilities or interest and forfeiture of the Company's vast number of leases and tenancies. With the advancement of Sri B. D. Pandey's age the Company had to place Sri S. P. Dey, the workman concerned, in the Zemindary department in the year 1962 for ultimate absorption in the post of Sri Pandey. Sri Dey joined in the Company's Dishergarh office in 1950 and had been working as an Accounts clerk in the Company's sand-stowing section. Shri S. P. Dey gave a good account of himself as an efficient accounts clerk. With a view to replacing Sri Pandey on his retirement the company transferred S. P. Dey from sand-stowing section to Zemindary department in the year 1962 sufficiently in advance to enable Sri Dey to make himself fully conversant with the jobs performed by Sri B. D. Pandey. Sri S. P. Dey is in Clerical grade II as per Wage Board recommendations but he has been performing all the jobs which were used to be done previously by B. D. Pandey in the Zemindary department. Since Pandey's retirement S. P. Dey is entitled to be placed in clerical grade I as per Wage Board recommendations. Having regard to the special nature of work performed by Sri Dey his case is not comparable with other grade II clerks working in the Zemindary department whose work are mostly routine work and who are junior to Sri Dey in length of service. With the abolition of Zemindary in 1955-56 there has been no reduction of work in the company's Zemindary department at Dishergarh rather it has increased the work load by making it obligatory to submit various statutory returns, statements and forms which were not required previously. The Company has no justification in not placing Sri Dey in grade I of the Wage Board recommendations and their failure and/or refusal to extend the said benefits to Sri Dey is an act of unfair labour practice and prejudicial to the interest of industrial peace of the establishment. The Company's

refusal to upgrade Sri S. P. Dey is totally arbitrary. So the union prays that an award be passed holding that the management is not justified in not placing Sri S. P. Dey in grade I as per Wage Board recommendations. The Union further prays that a direction may also be given in the award to the management to place Sri S. P. Dey in grade I retrospectively from the date of the present reference.

3. The management filed its statement on 22nd May, 1971 while the union filed its statement on 27th May, 1971 by way of meeting the management's case. The management in its statement contended that the reference was not legally maintainable nor was warranted on the facts and circumstances of the case. There is no statutory right of promotion. The present reference as framed is misconceived. Wage Board recommendations having no statutory force and the same having not taken into consideration the capacity of the industry to pay cannot be enforced. Sri Dey, after his joining in the service of the company in 1950, as posted in Zemindary department in 1962 and has been paid his due increments in grade II in which he has been placed. Besides Sri Dey there are other clerks senior to him who are also in grade II. It and when the management desires to promote any of the clerks of grade II, the senior most clerks are taken into consideration for promotion, best suited to its requirements. With the abolition of the Zemindary and closure of the working of some of the collieries of the management the volume of work of the clerks in general and that of Sri Dey in particular has been much reduced and as such Sri Dey does not deserve any special consideration on this score alone. After the union's statement was filed and served on the management, the management filed a rejoinder stating that Sri Dey is at present working as a clerk in the Zemindary department and his designation is not Accounts clerk as claimed by him. The management asserted in its rejoinder that with the abolition of Zemindary and closure of some of the collieries and taking over of some collieries by the Government of India, the company is no more the owner of many collieries and/or coal bearing lands and/or vast properties as contended by the union. The volume of work of the Zemindary department has consequentially been much reduced. B. D. Pandey was not performing the jobs mentioned in the written statement in paragraphs 5 and 6 of the union. There were other clerks who were, along with Pandey, jointly responsible for the jobs assigned to them. B. D. Pandey was put into clerical grade I because of his seniority and not because of the nature and importance of the work. The employer never intended nor placed S. P. Dey the workman in place of Sri B. D. Pandey. The management never decided to absorb Sri Dey the workman in the post of B. D. Pandey in as much as in 1962 there was no retirement scheme in the company. During the long career of his service Sri Dey workman never worked as Accounts clerk. So there can be no question of Sri Dey's having given a good account as an efficient accounts clerk in the sand-stowing department. The management did not transfer workman Sri Dey to Zemindary department with a view to replacing B. D. Pandey and/or making him conversant with the jobs performed by Pandey. Sri Dey has been placed in clerical grade II. It is incorrect to state that he is performing the jobs which were used to be done previously by Sri Pandey and that Sri Dey has any legitimate claim to be placed in grade I. Sri Dey's job is not of special nature and it is not true that his job is not comparable with other jobs of the clerical grade II of the department. Since Dey has no just or valid claim for being placed in grade I, the question of the employer's having resorted to any unfair labour practice and/or acting in the manner prejudicial to the interest of industrial

peace of the establishment does not arise. In the context of the facts of the present case Dey has no legitimate, valid or just claim for upgradation and as such the allegation of refusal of upgrading Sri Dey is totally baseless and without substance.

4. Points arise for consideration as incidental to the main point under reference are as follows:—

- (i) Within the scope of the reference does any question of promoting Sri Dey from grade II clerical to a post in grade I in terms of the recommendations of the Coal Wage Board arise?
- (ii) If there has been no promotion of any clerk in grade II to a post in grade I on the retirement of B. D. Pandey superseding the claim, if any, of Sri S. P. Dey to such promotion, can the management be held liable for discrimination in between workman S. P. Dey and the promotee thereby indulging in unfair labour practice?
- (iii) Having regard to the nature of duties performed by the workman S. P. Dey has he been rightly placed in grade II in terms of the recommendations of the Coal Award i.e. Mazumdar award and the Coal Wage Board recommendations?
- (iv) Can there be any question of promotion by way of upgrading Sri Dey from grade II to grade I within the scope of reference under adjudication?
- (v) Has the workman S. P. Dey any right on claim to hold any post in grade I on his promotion from grade II establishment of the management in preference to other clerks of the management's establishment in grade II who are senior to S. P. Dey?
- (vi) Having regard to the nature of duties performed by S. P. Dey is the management justified in placing him in grade II and in not upgrading him to grade I in view of the alleged recommendations of the Coal Wage Board in the light of vacancy caused by the retirement of Sri B. D. Pandey?

Decision

Points (i), (iii) and (vi) and the point in dispute under reference.

5. Having regard to the scope and contents of the dispute under reference the points (i), (iii) and (vi) are to be considered together with the scope and content of the dispute under reference which reads as follows:

"Whether having regard to the duties performed by Shri S. P. Dey, Clerk grade II, the management of Equitable Coal Company Limited, Post Office Dishergarh, District Burdwan is justified in not placing him in grade I as per Wage Board recommendations? If not, to what relief is the workman entitled and from what date?"

In deciding the matters covered by the points mentioned above, involved in and arising out of the scope and content of the dispute referred to for adjudication, the Coal Wage Board Recommendations and Award of the Mazumdar Tribunal relating to grade I, II and III clerical establishments in market collieries are to be examined, analysed and interpreted against the background of the case made out by the parties and the evidence on record. Coal Wage Board Recommendations, Volume I, Chapter VIII—Wage structure—Section D, Clerical Staff and their scale, page 75 to 77, amongst other things, at paragraph 15 prescribed three ordinary grades and one special grade. In paragraph 16, the Coal Wage Board recommendations say, "With regard to the categorisation of clerical staff, we have retained to the categorisation in Mazumdar

award as amended by the decision of the Labour Appellate Tribunal". The rest are irrelevant. Paragraph 17 of the recommendations reads as follows:

"17. Appendix XVI of the Majumdar Award with the above mentioned modifications is reproduced as Appendix VI to our report."

Paragraph 18 reads as follows:

"18. We are aware that there are some designations i.e. other than those mentioned in Appendix XVI to the Majumdar Award which are not covered by our recommendations, in respect of them. We would therefore, recommend that these categories should be appropriately adjusted in the scales of pay recommended by us bearing in mind the nature of the duties performed by them and the responsibilities attached to their jobs. In case of disputes arising from such categorisation, we would recommend that the same should be settled by mutual negotiations between the managements and the representatives of the workmen at unit level."

6. Mazumdar Award Chapter XIX, Volume I, paragraph 767 to 778 covers pages 202 to 205, regarding clerical staff. In dealing with clerical staff in the market collieries and their categories in Chapter XVI, p. 186, paragraph 709, Volume I, Majumdar Award says "When jobs are categorised, their values in terms of wages are fixed to the extent possible and there is no longer any question of workers doing the same type of work being put in different categories and paid differently. . . . The wages of each category are different and higher than one below (except the lowest)". At paragraph 769, page 203, Volume I, Majumdar Award says, "Considering the nature of the work in the colliery industry we consider that there should be three grades of clerks, not including therein special grades for head clerks in central office, certain stenographers and other jobs involving high degree of trust and responsibility. This is also the view of the parties. Sri L. J. Barraclough, representing the Indian Mining Association, on the one hand and Sri Kanti Mehta, Sri Kalyan Roy and Sri Mahesh Desai, representing the three principal labour federations on the other, who have, by consent, placed before us a statement on the grading and nomenclature of the clerical staff. The same has been set out in Appendix XVI. We propose to fix the scales with reference to the grading and nomenclature as set out in that statement. This Appendix XVI of Majumdar Award with minor modification by the Labour Appellate Tribunal was reproduced in Appendix VI, Vol. II, page 54 of the Report of the Coal Wage Board recommendations. In other words, the Appendix XVI of Majumdar Award and Appendix VI of the Report of the Coal Wage Board recommendations relating to the workman S. P. Dey and his colleagues are the same. To be precise, the categorisation of clerical staff in the market collieries as in Appendix XVI of Majumdar Award and Appendix VI of Coal Wage Board recommendations came from the representatives of the Indian Mining Association on one hand and the principal labour federations on the other, both having consented to the making of Appendix XVI equated to Coal Wage Board recommendations Appendix VI. The categorisation of clerical establishment in market collieries, therefore, according to Mazumdar award, as I have already mentioned, is itself a form of grading. In grading the clerical staff of the market collieries, jobs in each grade I, II and III, and special grade in Mazumdar Award were evaluated in terms of wage fixed for each category of grade of clerical staff. That categorisation of the clerical staff of market collieries, i.e. grading and nomenclature of jobs and evaluation of jobs in each category or grade according to Mazumdar Award left no room for questioning by the workers that they are doing the same type of work being put in

different categories and paid differently vide paragraph 709, page 186, Volume I, Majumdar Award. Coal Wage Board recommendations in paragraph 16 quoted above, with a very little modification, which has no relevancy to the facts and circumstances of the present case, retained Majumdar Award categorisation of clerical staff of the market collieries.

7. Now, let us look in Appendix VI, page 54, Volume II, Coal Wage Board recommendations relating to clerical staff grading and nomenclature. Grade I covers 7 indoor and surface clerical staff and 6 outdoor or underground clerical staff having each a job nomenclature. In grade I headclerk, senior tops the list. Then comes cashier, store-keeper, despatch clerks, audit clerks, stenographers, comptometer operators—outdoor or underground, loading inspectors, loading superintendents, coal inspectors, weigh bridge officers, gomostas, lamp room incharge. The word "Gomasta" relates to zemindari matters and signifies that the holder of the post of a gomosta is in charge of collection of rent, royalties of the zemindar, keeping accounts of the same retaining in custody the money realised on account of rent etc. from the zemindar's tenants. In grade II there are indoor surface clerical staff and outdoor or underground clerical staff each with a job nomenclature. Of the indoor or surface clerical staff, there is the clerk, cash clerk, assistant clerk, Accounts clerk, Provident fund clerk, Bonus clerk, clerks/sand-stowing besides other clerks; of the outdoor or underground clerical staff there are junior or assistant gomastas zemindari clerks besides other clerks. Indoor or surface clerical staff of diverse job description in grade II numbers about 46 each with a specific job nomenclature. Outdoor or underground clerical staff grade II have diverse job nomenclatures numbers about 8. Clerks/sand-stowing clerks, grade II—indoor or surface; accounts clerk grade II indoor or surface; junior or assistant gomasta/zemindari clerk grade II/outdoor or underground. Relating to grade III clerical staff and their job nomenclatures this case has nothing to do. So, categorisation of the clerical staff in market collieries, surface or underground, with diverse job nomenclatures both according to Mazumdar Award and the Report of the Coal Wage Board recommendations, have three ordinary grades or scales of pay and one special grade. Neither Mazumdar Award nor the Report of the Coal Wage Board recommendations prescribe any mode or method of promotion of persons fitted in different grades of the clerical staff with diverse job nomenclatures. There is no indication either in the Majumdar Award or in the Coal Wage Board recommendations as to how, when and on what conditions a person fitted in grade III to a post with a specific job nomenclature as in Appendix XVI of Majumdar Award and Appendix VI of Coal Wage Board recommendations respectively shall be entitled to be promoted to a post with a specific job nomenclature in grade II, so also a person holding a post with a specific job nomenclature in grade II shall be entitled to be promoted to a post with a specific job nomenclature in grade I of the clerical establishment in the market collieries. I have already mentioned that in paragraph 769 of Majumdar Award, Volume I, it was held that considering the nature of the work in the colliery industry, there should be three grades of clerks, not including therein the special grades for headclerks in central offices, certain stenographers and other jobs involving a high degree of trust and responsibilities. Consistent with the views of the representative of the Indian Mining Association and those of the principal labour federations who consented to the clerical staff grading and nomenclature as made by Majumdar Award in Appendix XVI, it was reproduced with a very little modification, which has no relevancy to the present case, in Appendix VI of the Coal Wage Board recommendations. Paragraph 775 of Majumdar Award, Volume I, should be read as relating to grade I clerks. The representative of the Indian Mining Association and the representatives of

the three labour federations agreed before Majumdar Tribunal that grade I clerk are those who do superior type of work. As regards the special scale, paragraph 769 of Majumdar Award, volume I says, "since the nature of the work in the market collieries is not always same as in state collieries and as we propose to create a special case for those like head clerks in central offices, certain stenographers and Accountants, etc., the scale will be fixed for grade I clerks in the agreed list as 60-4-80-5-150". So, grade I clerks according to Majumdar Award on the basis of the agreed list of the representatives of the Mining Association and principal labour federations are to do superior type of work. Only in paragraph 718, page 203, Volume I of the Majumdar award, it said, "Where the nature of the work is such that it requires higher scale than the highest that we have awarded, we have no doubt that the employers will introduce an appropriate scale. After all we are laying down only the minimum scales. That does not mean that large collieries with ample resources should not pay more when they can very well afford to. This can be settled by the employers themselves". So, the special scale available to an employee according to Majumdar Award may be introduced by the employers using their best discretion.

8. Coal Wage Board recommendations in paragraph 15, Volume I, page 76, modified the scale of pay of grades I, II and III of clerical establishment in market collieries and also specified the special grade. I have already mentioned that neither Majumdar Award nor the Coal Wage Board recommendation made any provision regarding grade I to grade promotion of clerical staff having specific job nomenclature while holding a post in the relative grades. In paragraph 775, Volume I of Majumdar Award, there is no indication as to the nature of work done by a clerk in grade I which may be, in comparison with the nature of work done by clerk in grade II, said to be superior. Now, while placing head clerks in central office, certain stenographers and accountants in the scale of pay fixed for grade I, etc., in terms of the agreed list (*vide* paragraph 775, Volume I of Majumdar Award), Majumdar Award in paragraph 769 while considering that there should be three grades of clerk excluding special grades for head clerks in central office and certain stenographers and other jobs involving a high degree of trust and responsibility created irreconcilable inconsistencies. Head Clerks in central offices, certain stenographer and other jobs involving a high degree of trust and responsibility according to paragraph 769, page 203, Volume I of Majumdar Award were excluded from grade I, grade II and grade III clerks since the holders of those posts are doing jobs involving high degree of trust and responsibility. So, in the three grades of clerks, head clerks in central offices, certain stenographers and others performing job involving high degree of trust and responsibility were to be classed as special grades. But in paragraph 775, page 204, Volume I of the Majumdar Award decided, "As we propose to provide a special case for those like head clerks in central offices, certain stenographers and accountants, etc., the scale will be fixed for grade I in the agreed list at 60-4-80-5-115". Again at paragraph 775, Majumdar Award, Volume I, page 204 decided, "Grade I not III which is clearly a clerical mistake) clerks in the agreed list are those who do superior type of work. They may be said to correspond to the upper division clerks in the State collieries and get total emoluments of Rs. 130-0-0 at the start (Rs. 80 basic plus Rs. 50 dearness allowance) and go upto total emoluments of Rs. 285 at the end (Rs. 220 basic plus 65 dearness allowance)". Those two portions of paragraph 775 read with paragraph 769 of the Majumdar Award clearly present an apparent confusion and nowhere in the Majumdar Award it has been stated for what specific reasons the grade I clerks in comparison with the grade II clerks do work superior in nature to the work done by grade II clerks. Still the award

must hold the field and should be accepted for the present decision. In paragraph 770, Volume I, page 204-5 the Majumdar Award, relating to special scale available to head clerks in central offices, Accountant in Madhya Pradesh, and Vinodhya Pradesh drawing below Rs. 300/-, certain stenographers and other types involving high degree of trust and responsibility put them in the supervisory class and for them no-scale was prescribed. So, paragraph 770 deals only with grade I clerks. Wage Board recommendations in paragraph 6, Chapter VIII, volume I, page 75 and in paragraph 17 page 71, with a very minor modification adopted Majumdar Award, Appendix XVI in the Report of the Coal Wage Board recommendations as in Appendix VI as the parties before the Board did not put forward anything suggesting alteration of the categorisation, job nomenclature and grade of clerical staff as made by Majumdar Award in Appendix XVI. The Coal Wage Board recommendations at paragraph 7 says, "The Indian National Mine Workers Federation (INMUC) has stated that while the existing nomenclature for the clerical jobs needs no change their grading requires the modification suggested by it. It is stated that it had been its experience that keeping clerks of the same designation in two grades has been taken advantage of by employers. It has claimed that on the nature and responsibility of their work, some categories of clerks should be up-graded". But this contention of INMUC could not persuade the Wage Board to prescribe the mode and method of upgrading some categories of clerk, consistent with the alleged nature and responsibilities of their. So, in paragraph 12 of the Report of the Coal Wage Board recommendations, it is said, "We have considered these submission of the parties. The consensus of opinion as expressed before us, appears to be that there should be four grades of clerks, viz., Grade III, I and the special Grade and we agree with that view". Then paragraph 15, page 75 the Report of the Coal Wage Board recommendations lays down four such scales. But the contention of Indian National Mine Workers Federation regarding some categories of clerk having same designation in two grades one in the higher and one in the lower, should have a chance of promotion from lower to the higher grade depending on the nature and responsibilities of their work was not accepted by the report of the Wage Board recommendations. Accordingly, on the nature of work evaluated to a specific job nomenclature, as specified under grades I, II and III respectively of the clerical staff in Appendix XVI of Majumdar Award, equated to Appendix VI of the Report of the Coal Wage Board recommendations page 54, volume II, categorisation on evaluation of the nature of the work done by clerks in grades I, II and III respectively of the clerical establishment must remain unaltered. Neither Majumdar Award nor the Report of the Coal Wage Board recommendations indicated any sliding method and condition under which a clerk with a job nomenclature in grade III would be promoted to grade II with the same or different job nomenclature and from grade II to grade III with the same or different job nomenclature. The question of up grading of some clerks by way of promotion from lower grade to higher grade adumbrated by INMUC before the Coal Wage Board found no favour with that authority. Before Majumdar Tribunal up-grading process for clerical staff of market collieries by way of promotion from lower grade to higher grade was not at all raised. The paragraph 18, Volume I, page 77 of the Report of the Coal Wage Board recommendations which I have already quoted says *inter alia* "there are some designations other than those mentioned in Appendix XVI in Majumdar Award which are not covered by the Coal Wage Board recommendations as sufficient materials had not been placed before the Board to make any specific recommendations in respect of them. So job designations or job nomenclatures with relative categorisations in the three clerical grades of the market collieries, except those jobs neither covered by Majumdar

award Appendix XVI nor Coal Wage Board recommendations Appendix VI, have been specifically evaluated to the nature of duties performed by a clerk in the relative grades or scales of pay. In the aforesaid paragraph 18 of the recommendations of the Coal Wage Board it is further said, in the context of what I have just quoted above from that paragraph, "We would, therefore, recommend that these categories should be properly adjusted in the scales of pay recommended by us bearing in mind the nature of the duties performed by them and the responsibilities attached to their job. In case of disputes arising from such categorisation, we would recommend that the same should be settled by mutual negotiations between the management and the representatives of the workmen at unit level". Now, this paragraph 18 contains two propositions, firstly the nature of duties performed, evaluated in relation to grades of pay bears a designation or a job nomenclature both according to Majumdar award and according to Coal Wage Board recommendations as appearing in Appendix XVI and Appendix VI of Majumdar award and Report of the Coal Wage Board recommendations respectively which requires no further consideration. Secondly, the Coal Wage Board found that in some collieries some clerical staff may be performing certain duties the nature of which could not be evaluated to any of those categories or grade, fixed either by the Majumdar award or by the Coal Wage Board recommendations with a specific job nomenclature or designation for such clerks. In such cases, the Wage Board recommended that those members of the clerical staff the nature of whose work could not be evaluated to a grade with a specific job nomenclature for them should be placed by the management in either of the three grades fitting them in the grade or scales of pay, bearing in mind the nature of duties performed by them and the responsibilities attached to their job. Even if a dispute arises in the categorisation of such members of the clerical establishment, it should be settled by mutual negotiations between the management and the representative of the workmen at unit level. So, those members of the clerical establishment with specific job designation, fitted under each of the three grades, and performing duties relating to the post having such specific job nomenclature under each of the three grades, cannot claim to come within second part of paragraph 18 page 77, Volume I of the Report of the Coal Wage Board recommendations. The workman Sree Dey, as I shall discuss hereafter, falls within first part of paragraph 18 mentioned above and cannot claim to be considered within second part of paragraph 18 as analysed above. I have already mentioned that Majumdar Award of the market collieries on the basis of the agreed list filed by the representatives of the Indian Mining Federation and the three labour federations took into consideration the nature of duties performed by a clerk and stamped such a clerk with a specific job nomenclature in the list. Having regard to the nature of duties performed by a person in the clerical establishment of market collieries with a specific job nomenclature as was given in the agreed list, which became Appendix XVI of Majumdar award, and which with little modification, not relevant for the purpose of the present case, became Appendix VI of the Report of the Coal Wage Board recommendation such person has been categorised or placed in either of the three grades, carrying a scale of pay for each grade thereby evaluating the nature of job performed equivalent to the scale or grade of pay, and giving such person a particular designation or a job nomenclature related to the nature of his duties as performed, and evaluated to a grade or scale of pay. Such a person so categorised as in Appendix XVI of Majumdar award and Appendix VI of the Report of the Coal Wage Board recommendations cannot be considered for adjustment in the scale of pay in either of the categories—grade I, II and III of the clerical establishment by further evaluating the nature of duties performed by him and the responsibility attached to his duties. This is the

over-all position of the members of the clerical establishment in market collieries appearing from the Majumdar award and the Report of the recommendations of the Coal Wage Board. The workman Sri Dey cannot, therefore, have any grievance as that raised in the dispute under reference since his nature of duties, having had been evaluated he was placed in Grade II of Coal Wage Board recommendations, so soon as the management had implemented the same on 15th August, 1967.

9. I have already mentioned, analysing Majumdar award and the Report of the recommendations of the Coal Wage Board that grade to grade promotion in the clerical establishment in market collieries has not been prescribed laying down the method, manner and conditions under which members of the clerical establishment would be entitled to promotion from the lowest grade to the highest. The Majumdar award considered the nature of duties performed by each member of the clerical establishment and categorised them in 3 grades, evaluating the nature of the job performed by each member of the clerical establishment, to different grades of scales of pay, and listed each of them with a job nomenclature under each of the three grades of clerical establishment leaving no room for recategorisation and re-evaluation and re-designation for the nature of job performed by a member of the clerical establishment even if there could be any imaginable change in the nature of duties performed and trust and responsibility involved therein subsequent to the Majumdar award coming into force. The same is the position with regard to the report of the Coal Wage Board recommendations, except in those cases about which I have already made a reference.

10. This situation must be kept in the background in deciding the dispute under reference and the incidental points involved in and arising out of the dispute now under consideration. Let me now take the reference itself which reads as follows:

"Whether having regard to the duties performed by Shri S. P. Dey, Clerk Grade-II, the management of Equitable Coal Company Limited Post Office Disbargarh, District Burdwan is justified in not placing him in Grade-I as per Wage Board recommendations? If not, to what relief is the workman entitled and from what date?"

As per Wage Board recommendations Sri Dey, the workman, was placed in grade II as a clerk on 15th August, 1967. Under grade II, Appendix VI, page 54, Volume II Wage Board recommendations, the job nomenclature as "clerks" appears thrice. Sri Dey as his Service Card entries show, Ext. M1 and M1(1), was born on 16th May, 1927. He is a non-married. He was appointed by the management on 13th March 1950 as clerk grade II, (company grade). Ext. M1, Ext. M1(1) (Service cards) containing detailed entries relating to Sri Dey show that at a salary of Rs. 20/- per month he was appointed first as a sand-stowing clerk. On 1st November 1950 his pay was increased to Rs. 30/- on promotion to junior clerk (Company grade). On 1st June 1958 he got monthly pay of Rs. 95/- grade II. Ext. M1(1) contain those entries relating to workman Dey when he was getting his salary according to management's scale. Ext. M1 further shows that on 15th August 1967 grade II clerk workman Dey began to get Rs. 268/- as his basic pay, according to Coal Wage Board scale. Ext. M1(1) Service card of workman Dey, shows that he was posted to Zamindari department as a clerk on 4th June, 1962. Now Appendix VI, page 54, Volume II of the Report of the Wage Board recommendations—Clerical staff grading and nomenclature shows a designation 'Zamindari clerks' under sub-head 'out-door or underground'. So from 4th June 1962 Dey when posted to Zamindari department being a clerk

in Company grade II must be held to be a "Zamindari clerk". In this connection, the Service card of one Banshi Dhar Pandey Ex. C1 with the endorsement Ext. C1(1) would be very much interesting. He was appointed as a clerk by the management in May 1923 at a monthly salary of Rs. 25/-. He was posted in the Zamindari department Head Office as Accounts clerk in May 1923. This card, Ext. C1(1) of Banshi Dhar Pandey do not contain entries showing when he got Wage Board scale in grade II. He retired with effect from 18th November 1968 on a pension of Rs. 75 per month plus 25 per cent. There is an entry against his designation in black ink 'Accounts clerk' with a red ink addition grade I. This Pandey worked in the colliery for about 46 years. His service Card shows that when he was appointed in the Zamindari department Head Office Dishergharh, he was an Accounts clerk in the Zamindari department. In 1962 Pandey was the Accounts clerk in the Zamindari department. Under grade II, clerical staff grading and nomenclature; Appendix VI, page 54 vol. II of the Report of the Wage Board recommendations there is the job designation "Accounts Clerk". This job-designation existed in the management's Zamindari establishment even in 1923 when Pandey was employed there with the designation Accounts clerk, Zamindari department Head Office. So, from 1923 to 1968 Pandey was the Accounts clerk in the Zamindari Department Dishergharh when he retired as such. Pandey, in 1962, was Accounts clerk, Company grade II, when the clerk or as a matter of that, Zamindari clerk, Sri Dey, the present workman, was posted in the Zamindari department as Company grade II clerk meaning Zamindari-clerk. From 1962 to the date of his retirement on 18th November, 1968 Pandey was the Accounts clerk, Zamindari department while S. P. Dey was the Zamindari clerk in the Zamindari department, both in grade II. Now, the workman S. P. Dey said in his examination in chief that he entered the service of the employer on 12th March, 1950 as Sand-stowing clerk as recorded in his service card, Ext. M1(1). He was then placed in grade II of the company. He was placed in grade II Wage Board scale at a salary of Rs. 268/- per month on 15th August, 1967. When he said in his examination in chief that he came to the Zamindari section to assist the Accountant of the department he meant the Accounts clerk of the department, that means B. D. Pandey as Sri Dey was posted as a clerk in the Zamindari department where Pandey was the Accounts clerk in the Zamindari Department. In grade I, II and III, Appendix VI, clerical staff grading and nomenclature page 54 Volume II, Coal Wage Board recommendations, there is no job nomenclature as Accountant. The workman S. P. Dey said that Pandey was the Accountant in Zamindari section when the Wage Board recommendations came into force in 1967. Pandey was in fact the Accounts clerk in Company Grade II in 1962 such as Dey has been since 1962, a Zamindari clerk in grade II in the Zamindari department at the Head Office at Dishergharh of the management. There is no designation with a job nomenclature Accountant in any of the three clerical grades. There is only the Accounts clerk under grade II who may be posted in Zamindari department or in the Stores department or in the Audit department or in the General establishment and where not. Similarly a clerk or a Zamindari clerk in grade II may be posted in the Audit department, in the General establishment, in the Agent's office, in the Bonus department, in the Provident fund department, in Ration department, in the Store department and where not. A general clerk is a clerk doing general clerical work. A Zamindari clerk is a clerk doing work pertaining to Zamindari affairs and accounts clerk in the Zamindari department is to do work pertaining to accounts relating to Zamindari affairs but not relating to cash collections in such department. A clerk in the Store department is similarly to keep accounts of stores; he may be a store keeper when he is in charge of stores or he may be a clerk in the Store department but not

the Store keeper. A clerk in the Store department may be an ordinary clerk or a Store keeper, but both undergrade II of Wage Board Recommendations. Between a store-clerk and a store-keeper the difference is that a Store Keeper is in the overall charge of the stores whereas the store clerk may have to write accounts of all materials in the store received and stores issued. In grade II there is also store issue clerk whose duty may be only to issue store and keep its Account. All these are based on my reasonable explanations of those job designation. So taking into consideration the nature of duties actually performed and evaluating the nature of duties performed to different grades of pay, members of the clerical establishment had been given specific job nomenclatures, both by the Mazumdar award, and by the Report of the recommendations of the Coal Wage Board, as appearing in Appendix VI, page 54, Volume II, clerical staff grading and nomenclature of the Report. In the Zamindari department of the Head Office when Pandey was the Accounts clerk Sri Dey, the workman, S. N. Bose and P. N. Chatterjee were his assistants meaning Zamindari clerks in grade II. So, in the Zamindari department the Accounts clerk and Zamindari clerks were in Company grade II up to the time 14th August 1967, i.e., before the implementation of the Wage Board recommendations on 15th August 1967 these Zamindari clerks got grade II while Accounts clerk got grade I on and from 15th August 1967 under Coal Wage Board recommendations. There lies the crux of the dispute. Pandey retired in November, 1968. Wage Board recommendations came into force on 15th August, 1967. Before Wage Board recommendations came into force on 15th August 1967, Bose, Chatterjee, Dey and Pandey were all clerks in the Zamindari department, Pandey Accounts clerk and other three Zamindari clerks, all in Company grade II. Now, three years before his retirement, as Dey said in cross-examination Pandey was given grade I of the Wage Board Recommendations. This is absolutely incorrect. Pandey retired on 16th November 1968 vide Ext. C1. Wage Board recommendations came into force on 15th August, 1967. So three years before 15th August 1967, i.e., sometime in 1965, when the Wage Board recommendations did not see the light of the day, Pandey got grade I as an Accounts clerk according to workman S. P. Dey (vide his cross-examination). The Company had the grade I for clerical establishment before the Wage Board recommendations came into force. So, if Pandey got grade I three years before his retirement sometime in November, 1968, he must have had got the company's grade I, but not grade I of the Report of Coal Wage Board recommendations. So, before the Coal Wage Board recommendations came into force, Pandey was getting company's grade I scale of pay. He was necessarily to be fitted by the Company in grade I scale of Wage Board recommendations, not by way of promotion but by way of fitment to the proper scale, not on the basis of any change in the nature of the job, volume of work and increase of responsibility. The nature of work of Pandey remained from 1923 to 1968 as also on 15th August, 1967, as that of an Accounts clerk in the Zamindari department. Before Wage Board recommendations came there were three grades of pay in the company's clerical establishment also apparent from the entries in the Service cards of Pandey, Ex. C and C(1)—Pandey was Accounts clerk in Grade I of the Company in 1965 and he was to be fitted in Grade I of the Report of Coal Wage Board recommendations in terms of such recommendations. But still up to the date of his retirement in November, 1968 his designation was Accounts clerk, Zamindari department, where Baidynath Laik, Ext. M2 and M2(1) and S. P. Dey Ext. M1 and M1(1) were clerks. So, there can be no room for any imagination to cloud anybody as to why Accounts clerk Pandey as he was on 15th August 1967, had to be given pay in the scale of grade I of Wage Board recommendations when the management implemented the scales of pay for clerical staff as recommended by the Coal Wage Board. The management had its own grade I for the

clerical establishment. Three years before his retirement, sometimes in November 1965, before the recommendations of the Coal Wage Board came into force, management thought, having regard to the number of years of service rendered by Pandey that Pandey should be given grade I scale of pay as was fixed by the management. So, when Coal Wage Board recommendations came into force and implemented by the management, the management had no other alternative but fit Pandey who was in management's grade I pay higher than the grade II of the management, in grade I pay of the Coal Wage Board recommendations. So, it was not the question of promotion of Pandey but it was the question of his fitment in the scale of pay, in terms of the Wage Board recommendations i.e. in the scale of pay in grade I of Coal Wage Board recommendations, when Pandey was in the highest grade of pay, being in the Company's grade II of the clerical establishment of the management, still holding the post of Accounts clerk in the Zemindari department. The nature of work, the responsibility and the status of Pandey remained all along the same from 1923 till his retirement in November, 1968. This is the real situation which explains why Pandey-Accounts clerk-Zemindari department got grade I. Majumdar award and the Coal Wage Board recommendations, as I have already mentioned, took into consideration the nature of job performed by the members of the clerical establishment, evaluated the jobs to different grades and fixed the holder of the job with a job nomenclature or designation in different grades or categories, with specific job nomenclatures thereunder. The job nomenclature of Pandey was Accounts clerk. The job nomenclature of Dey, Laik and Chatterjee, is clerk in the Zemindari department or Zemindari clerk. I have already mentioned that in grade I of the Wage Board recommendations there is a post designated as Gomosta, superior to Gomastas is the Naib in selection or special scale in the Zemindari department (see Dey's cross-examination). It is a common knowledge particularly to those dealing with the Land Laws of Bengal now West Bengal that a gomosta of a Zemindar is to collect rent and royalties, grant receipts to tenant keep accounts of the collections and to have temporary custody of the money collected till deposited with the Dewan in Sadar Cutchary of the Zemindar. So, he has a definite financial responsibility. Over a gomosta there is the Naib to supervise the work of gomostas. There can be no Naib as the Company has, if there is no Gomosta of the company. So, I believe that when Sree Dey admits that there is a Zemindary Naib in special scale, there must be a Gomosta or Gomastas of the Company's Zemindari in the Zemindary department. But Accounts clerk or as a matter of that a Zemindari clerk cannot have the same responsibility nor can have the same nature of work as that of a gomosta, not to speak of a Naib, of a Zemindar. Dey admitted in his cross-examination that he was never designated as Accounts clerk. His designation all along in the Zemindari department is a clerk in Zemindari section or Zemindari clerk. If he is designated as Accounts clerk, as Pandey had been, till his retirement, he would still be in grade II as Pandey was upto sometime in November 1965 when he got the grade I scale of the company and also grade I according to Mazumdar award and Coal Wage Board recommendations, Appendix XVI and Appendix VI respectively. I have already mentioned that Accounts clerk and Zemindari clerk in the Zemindari department are in grade II (See Volume II, page 54, Coal Wage Board Recommendations), Mazumdar Tribunal and the representatives of Indian Mining Federation and Principal Labour federations took into consideration the nature of work, volume of work, and responsibility of Accounts clerk and Zemindari clerk and then categorised each of them. Coal Wage Board accepted the same *in toto*. So, there can be no room for further assessment and evaluation of the nature of the work performed either by an Accounts clerk or by a Zemindari clerk in the Zemindari department and no re-categorisation in between an accounts clerk and a Zemindari clerk can be conceived of. Now, if the workman would have come with a case that he

is performing the duties of a "gomosta" of the zemindari department, I could have then follow the rationale of his demand. I have already said that it is a common knowledge that a zemindar must have its Gomosta, Naib and Khajanchi and Dewan, besides the sumernabis and other subordinate staff. In a Mahal, the gomosta is incharge of collection of rents from tenants and granting receipts therefor and he is to maintain accounts or collection of rent from tenants, keep custody of the collected money till deposited with the Zemindari Head office. Over some Mahals there is the direct supervisory authority the Naib who is directly responsible to the Dewan who again is directly responsible to the Zemindar. This is the system that was in vogue when Zemindari was prevalent in West Bengal as would appear from Rampini and Funicum Bengal Tenancy Act and Ghose's Bengal Tenancy Act. A Gomosta has got, therefore, tremendous financial responsibility. He is an out and out outdoor workman. He must be a person on whom trust and confidence can be reposed in regard to monetary affairs but Accounts clerk in the Zemindari department or as matter of that zemindari clerks have no financial responsibility and they are out and out indoor white Collors. None of them has got any responsibility relating to collection of rents and royalties and cesses from tenants and payment of rent and royalties and cess for the Zemindar and by the Zemindar to the State. The Accounts clerk and the zemindari clerks are to work hand in hand in collaboration with each other only with dead-papers. They are to prepare returns and statistics involving arithmetical calculations by addition, subtraction and multiplication, thereby doing mainly clerical work. They may have to go once or twice outside the office room only when there is any imperfection in their work that compels them for their own interest to go out of doors from the office evident from the evidence of workman S. P. Dey. In cross-examination Dey the workman said "In the zemindary department myself, S. N. Bose, P. N. Chatterjee and B. Laik work. They are all clerks in grade II". If Dey the workman is designated as Accounts clerk, he cannot get grade I since in grade I there is no Accounts clerk. If he could say that he has been performing the duties of a gomosta in the zemindari department then having regard to the nature of his work, there could be some room for consideration as to whether or not he should be designated as a Gomosta and should be put in grade I as shown in the Appendix VI, page 54, Volume II of Wage Board recommendations. But that is no where his case. He is doing the duties of Accounts clerk. So the nature of duties at best if not of a zemindari clerk, but of an Accounts clerk in grade II, Appendix VI, page 54, Volume II of the Wage Board recommendations. He came with a story that besides doing the work of a Zemindari clerk he is also doing single handed the work of a Zemindar clerk and he is also doing single handed the work of Accounts clerk as was done by B. D. Pandey. So, he means to say that in addition to his work done as Zemindari clerk, he is also doing the work of a Zemindari clerk he is also doing single handed. Accordingly, he should be given the scale of pay in grade I. The sum total of his work is the clerical work, be it zemindari clerk's work or of Accounts clerk's work in the zemindari department. For increase in volume of work, the nature of work does not change nor the responsibility. If he claims that he should be designated as Accounts clerk as he is doing also the work done by Pandey in addition to his own work, as zemindari clerk, he being so designated as Accounts clerk will be still in the grade II. As I have already observed if he would have come with a case that he is doing the work of a Gomosta in the zemindari department with all the vigor of that designation relating to its nature of work and trust, and responsibility involved in the performance of such work, then there could be some room for consideration as to whether or not in terms of the Wage Board recommendations Shri Dey can claim to come to grade I

in the zemindari department with the designation 'Gomosta'. The workman could not visualise his own position. Perhaps he wants that. But the dispute raised before the Conciliation Officer through the Union stands upon utter misconception as the scope and content of the reference indicate. Shri Dey a zemindari clerk in Grade II claimed that he is performing the duties not only of a zemindari clerk Grade II, but also of an Accounts clerk grade II. Therefore, he claims that he should get grade I according to the recommendations of the Wage Board. This is neither here nor there. If he is doing the duties of a zemindari clerk, in addition to the duties of an accounts clerk in the zemindari department his volume of work may have increased but there has been neither any change in the nature of duties nor in his responsibilities, nor liabilities. He is not required to shoulder any financial responsibility, nor he is required to do out and out outdoor duties with the financial responsibilities like that of a Gomosta. He is not required to go out of doors for collection of rents and royalties. He is not required to keep any money of the management in his custody. He is simply a compiler of statements and returns from the materials submitted by collieries concerned. Is he doing the work single handed? In cross-examination Dey said "In the Zemindari department, myself, S. N. Bose, P. N. Chatterjee and Baidyanath Laik work". Before retirement of Pandey, Accounts clerk, Dey, Baidyanath Laik and Chatterjee worked as Pandey's Zemindari-clerks. After retirement of Pandey, Dey, S. N. Bose, P. N. Chatterjee and Baidyanath Laik work. So, how can there be any increase in the volume of work? In his examination-in-chief, he said, "When Pandey was Accounts clerk in our section, myself, S. N. Bose, P. N. Chatterjee were his assistants. After Pandey's retirement I am doing the job but I have no assistants from 1970 when Pandey retired". Pandey retired in 1968 November, not in 1970. It is a blatant lie. In cross-examination he said, "In the Zemindari department, myself, S. N. Bose, P. N. Chatterjee and Baidyanath Laik work". So, the statement in cross-examination quarrels with the statement in examination-in-chief making the two statements a blatant lie. Dey wanted to impress upon me that his volume of work as also the nature of his work has increased. So, he must get grade I as Pandey got. Why Pandey got grade I, has already been analysed and ascertained by me. I need not repeat it. Pandey from 15th August, 1967 upto his retirement in November, 1968 held the post of Accounts clerk in grade II of the Wage Board recommendations but fitted to grade I for reasons already discussed. If Dey wants to be designated as accounts clerk, he cannot get grade I on that score. But if he came with a dispute that since retirement of Pandey he has been performing the duties of a gomosta in the zemindari department there could be some sense in his demand and some rational in the dispute raised by him through the union. The nature of work of accounts clerk has already been evaluated, so also the nature of work of a zemindari clerk. There can be no further re-evaluation either of the nature of work of a zemindari clerk or of an accounts clerk in the zemindari department. Mr. Lal Gupta, the learned Advocate for the union submitted that when the volume of work has increased as performed by Dey, since the retirement of Pandey, he should get grade I as Pandey got. I could not accept his submission. For increase in the volume of work neither the accounts clerk nor the zemindari clerk can claim upgradation to grade I. There is no scope for a grade II clerk to get grade I only because of increase in the volume of his work within the four corners of the Report of Coal Wage Board recommendations. If the accounts or zemindari clerk in the zemindari department by reason of the change in the nature of their duties involving greater trust, and responsibility, particularly financial responsibility, compared to trust and responsibility involved in the performance of their duties either as an accounts clerk

or as a zemindari clerk, claims a specific designation related to Grade I, then a zemindari clerk or an accounts clerk in grade II of the Wage Board recommendations can have some justification only to claim upgradation in grade I in the post of a "gomosta", in the Zemindari Department. What I could follow from the evidence of Dey and from the argument of Mr. Lal Gupta that because Pandey got as Accounts clerk pay in grade I, the workman Sree Dey doing the work not only of a zemindari clerk but also of the accounts clerk in the zemindari department shall get pay in the grade I. Why Pandey got pay in the grade I as the Accounts clerk, I have already ascertained and decided. Pandey's nature of work did not change along with the degree of trust and responsibility, involved in the performance of his duties as an accounts grade II. The company in 1965 took into consideration the length of service of Pandey while he was in grade II of the company's clerical establishment as an accounts clerk and gave him grade I of the company's establishment which was the highest grade in clerical establishment introduced by the company. Accordingly when the Wage Board recommendations came into force Pandey though an accounts clerk, could not be fitted in grade II scale of pay, as recommended by the Wage Board but he was put to in grade I of the Wage Board recommendations although his nature of duties and the degree of trust and responsibility in performance of his duties as accounts clerk did not change, or else in Appendix XVI (Majumdar award) and Appendix VI of the Report of the Coal Wage Board recommendations, accounts clerk and zemindari clerks in the zemindari department could not have been categorised with the respective job nomenclatures while evaluating the nature of the duties performed by them, in grade II both by the Majumdar award and by the Coal Wage Board recommendations. Therefore, having regard to the nature of duties performed as appearing from the evidence of Shri Dey the workman, he cannot, within the terms of the recommendations of the Coal Wage Board claim to be placed in grade I while in the zemindari department. If he is to be placed in grade I in the zemindari department, he must be designated as a gomosta and the gomosta is one who is to collect rent and royalties from the zemindar's tenants, keep accounts of such collection and custody of the money collected till deposited with the head-office of the Zemindar. The nature of duties of a gomosta thus carries not only trust and responsibility but financial liability. That is why a gomosta is in grade I of the Coal Wage Board recommendations, while the accounts clerk and zemindari clerks, having no financial responsibility and no such responsibility and liabilities like those of a gomosta have been categorised in grade II, but not in grade I. At best it can be said, which I do not accept, that there may be some increase in the volume of work now done by the workman Dey. It may be that he is doing the work of a zemindari clerk in addition to the work of an accounts clerk in the zemindari department, but that also I do not believe since he has three other colleagues in the zemindari department. If they do not help Dey in doing his duties of an accounts clerk, as he had helped Pandey, he can approach the management if he has any grievance on that score for proper allocation of duties. But that cannot be the subject matter of a dispute as that which can be legitimately considered to be an industrial dispute. Therefore, on the materials on record having regard to the nature of duties that are being performed up-to-date by Shri Dey, the workman, he, at best can be designated as an Accounts clerk in the Zemindari department and as an Accounts clerk in the Zemindari department, cannot be placed in grade I but he must remain in grade II and must continue to be in grade II till his nature of duties is changed involving trust responsibility particularly financial liability, like that of a gomosta in the zemindari department who is in grade I in terms of the recommendations of the Wage Board. So, I hold that having regard to the nature of duties performed by workman Shri Dey now in grade II of Wage Board recommendations, even if he be designated as Accounts clerk in the zemindari department he cannot be placed

in grade I of the Wage Board recommendations since the nature of his duties, and responsibility, even as an Accounts clerk in the Zemindari Department, cannot be equated to those of *gomasta* of the zemindari department in Grade I on the very face of his own evidence and the statement of case made for the workman by the Union. This answers the dispute under reference that is for adjudication before me. The scope and content of the dispute under reference go tangentially with the recommendations of Coal Wage Board—Chapter VIII, Volume I, page 75-77, and Appendix VI, Volume II, page 54. The dispute itself is without any difference in view of the Coal Wage Board recommendations themselves.

11. *Point (i)*.—In view of my findings on the main point in dispute under reference, there is no scope within the dispute under reference to consider the question of Dey's promotion from grade II to grade I of the clerical establishment within the four corners of the recommendations of the Coal Wage Board. I have elaborately given my reasons in support of my findings just made.

12. *Point (iii)*.—Shri Dey is in grade II under the job nomenclature zemindari clerk. He may be designated as Accounts clerk in the zemindari department, but still then he will be in grade II of the Wage Board recommendations. I have already found that either as an accounts clerk or a zemindari clerk or as an accounts clerk-cum-zemindari clerk, the nature of duties performed by Dey does not involve such trust, responsibilities and financial liability as those of a *Gomasta* in the zemindari department who is placed in grade I in the Report of the Coal Wage Board recommendations. Therefore, he, Shri Dey an accounts clerk or a zemindari clerk, has been rightly placed as a clerk in the zemindari department by the management in terms of the recommendations of the Wage Board.

13. *Point (ii)*.—On the retirement of Pandey, who worked as Accounts clerk in the Zemindari department till upto his retirement and get grade I scale of the Wage Board recommendations for reasons already discussed, there has been no appointment of another clerk of grade II in grade I in any Department of the Company. It should be made clear that if a clerk in grade II is to be promoted to any position in grade I, the post with a job nomenclature in grade I must involve such degree of trust and responsibility as would be higher than the trust and responsibility involved in the performance of the duties by a clerk in grade II. (See relevant paras of Majumdar Award, Volume I, quoted hereinbefore in this decision). Now, if a clerk in grade II is asked by the management to perform duties involving trust and responsibility attached to a post in grade I with a specific job nomenclature, he must get, as of right, while performing the duties, assigned to the holder of a job, its specific designation in grade I as well as the scale of pay in Grade I. It is not the case of the union that after retirement of Pandey anyone in the clerical establishment in grade II was up-graded to grade I retaining his job designation as in grade II. So, there can be no question of supersession of Dev, the workman not to speak of management's indulging in unfair labour practice on the score that workman Dev had not been placed in grade I on the retirement of Pandey, even though he is doing not only the work he was doing as a zemindari clerk but also the work of accounts clerk, both in grade II. So, if the sum total of work that is being done by Dey is only indicative of the increase in the volume of his work, that does not entitle him to be placed in grade I under the Coal Wage Board recommendations. If he was asked and was doing the duties of a *gomasta* in the zemindari department but he was not being paid the scale of pay as in grade I of the Wage Board recommendations, certainly the reference should have been answered in favour of the workman, but that is not the case.

14. *Point (iv)*.—I have already found while answering the main point under the reference that there can be no scope for promotion by way of up-grading Dey from grade II to grade I within the scope and content of the reference placed against the background of the Coal Wage Board's recommendations which I have already analysed and interpreted in answering the dispute under reference. I need not dilate on the point further.

15. *Point (v)*.—If it is imagined that for doing the work both as a zemindari clerk and accounts clerk, Shri Dey, the workman should get higher emoluments and should, therefore, be fitted in grade I, that would amount to his claim for promotion. Now, there are several clerks in grade II who are senior to Dey. Dey claims that he is the senior most grade II clerk in the zemindari section. Now, Dey is senior to Laik in age but he is junior to Laik in service. Baidyanath Laik entered the service of the company as a clerk on 1st September, 1948, Ext. M2 while Dey, workman, entered the service of the company on 13th March, 1950, vide ex. M1. Both Laik and Dey, the workman, are clerks in the zemindari department. In his cross-examination, page 4, workman Dey stated, "There are four clerks in our section including myself and we are all grade II clerks. Baidyanath in legal matters, Bose in Land acquisition matters, Chatterjee in Licensor motor and vehicles, S. N. Bose and Chatterjee are also to do out-door duties". So, Dey is not senior at least to Laik. Accordingly, if anybody could legitimately claim the right of promotion from grade II to grade I in the zemindari section, Laik who is senior to Dey must have the first preference, if Laik could claim a right to promotion from grade II to grade I, which, however, he cannot claim under the law. Laik should be preferred to Dey, being senior in service to Dey, and Dey cannot as against Laik claim any right to promotion from grade II to grade I. This answers the point. Neither of them can claim any right to promotion.

16. *Point (vi)*.—I have answered this point while answering the main dispute under reference as well as point No. (iii). I have already observed that if Dey is to claim a post in grade I in the Zemindari department, he can claim the post of a *Gomasta* in grade I. He claims that because he is doing work of Pandey as well as his own work, he must get Pandey's scale of pay that means grade I scale of pay of Wage Board recommendations. I have already found that it is not the case of the union and of the workman while doing the duties of a zemindari clerk and an accounts clerk, since the retirement of Pandey, there has been a change in the nature of his work in the sense, a change in the degree of trust and responsibility including financial responsibility involved in the nature of duties, as performed by a *Gomasta* in the Zemindari department. Shri Dey does not claim that he is performing the duties of a *gomasta*, yet he has been denied the pay of *gomasta* in grade I as recommended by the Wage Board. I do not believe that he is not being assisted by his three colleagues in the zemindari department while performing his duties he is the duty of an accounts clerk or of a clerk in the zemindari department. If the duties that were being performed by Pandey are now being performed by Dey in addition to his own duties that does not involve, as I have already found a change in the nature of his duties so as to entitle him to claim to be placed in grade I which is available only to a *gomasta* in the Zemindari department where Dey having the nature of his duties performed may either be designated as an accounts clerk or as a zemindari clerk which would not change his category, being grade II. Therefore there is no question of upgrading Dey from grade II to grade I. If he was to be placed in grade I, he could have claimed the post of a *gomasta* provided he was asked by the management and he was performing, on being entrusted by the management with, the duties of a *gomasta*, shouldering the trust and responsibilities including

financial responsibility which inheres in the performance of the duties of a *gomasta* of a *zemindari* department. But that is not his grievance nor that is included or can be conceived to be included within the scope and contents of the reference.

17. Accordingly, I hold that having regard to the duties performed by S. P. Dey, clerk grade II, the management of the Equitable Coal Company Limited, P.O. Dishergarh, District Burdwan, was totally justified in not placing him in grade I having regard to the nature of duties that are being performed upto-day by Shri S. P. Dey. The Wage Board recommendations fix him in grade II. He may at best be designated as Accounts clerks by the management if he feels that his status as a *zemindari* clerk is rather humiliating. But be he an accounts clerk or a *zemindari* clerk in *zemindari* department under the Wage Board recommendations having regard to the nature of duties performed by him he is in grade II and has been rightly fitted in grade II by the management following the recommendations of the Wage Board. Therefore, the workman cannot have any room for any dispute as has been raised by him. The scope and content of the dispute under reference analysed against the background of the recommendations of the Coal Wage Board do not admit of the workman Dey's claim for being placed in grade I of the Coal Wage Board recommendations, in view of the evidence on record and the statements of case made by the union on behalf of the workman.

18. Mr. Lal Gupta for the union representing the workman submitted that within the scope of the reference he could argue that by not allowing any grade II clerk to be promoted to grade I, the management was indulging in unfair labour practice. I was not impressed with his argument. I have made it clear that neither the Mazumdar award nor the Coal Wage Board recommendations gave any indication for promotion of members of the clerical establishment from grade to grade. I could find in classification and categorisation Committee's Report on Indian Ports, Volume I, para 27, a scheme from scale to scale promotion for skilled artisans of all Indian Port. If a grade III clerk is ordered by the management to perform the duties of a grade II clerk, there must be some change in the nature of duties with the corresponding change in the degree of trust and responsibility involved in the performance of such duties. In such a case he must fill a post with a particular job description in grade II. In that event he is as of right entitled under Wage Board recommendations a scale of pay in grade II. Similarly, if a clerk in grade II is asked by the management to perform duties of a clerk in grade I there would necessarily be a change in the nature of his duties involving greater trust and responsibility than those involved in performance of his duties in grade II. In such a case, he would as of right, claim to get the pay of grade I. This is the only way of promotion according to Coal Wage Board's recommendation. Suppose a senior head clerk in grade I retired. The management then asks a junior head clerk grade II, or the cashier grade II to perform the duties of the senior head clerk in grade I. In that event the nature of his duties must change with the corresponding change in the degree of trust and responsibility involved in performance of his duties of the changed nature. In that case the head clerk junior or the cashier on being asked to perform the duties either of head clerk senior or cashier would come in grade I and shall get pay in the scale as in Appendix VI, page 76, Volume I of the Coal Wage Board recommendations. So, Mr. Lal Gupta's argument that none of the clerks in grade II has been allowed by the management to get grade I is misconceived. Mr. Lal Gupta never said that the clerk in grade II, say an assistant head clerk or say a pay clerk in grade II, was asked to do the duties of a storekeeper or a despatch clerk in grade I and that they have been performing such duties. But still the management has debarred them from getting the

pay in the scale of grade I. If he could have pointed out any such instance, the management could be found involved in unfair labour practices, even though the reference does not invite me to indulge in such irrelevant and imaginary propositions. There is no material on record to substantiate such argument. It may be that upto now there has been no vacancy in any of the jobs in grade I. So, none of the persons in grade II has been asked to work in any of the capacities with any of the job nomenclatures as in grade I. Mr. Lal Gupta submitted that because Pandey, a grade I, Accounts clerk retired, Dey who was doing the duties of accounts clerk in addition to his own duties as *zemindari* clerk must, as of right, get grade I, though his designation may not change. Why Pandey was given grade I of the Coal Wage Board recommendations I need not repeat. Within the scope and contents of the recommendations of the Coal Wage Board and against the background of the categorisation list—clerical staff grading and nomenclature—as in Appendix VI of the Coal Wage Board, page 54, Volume II, scale to scale promotion has not been indicated either by the Mazumdar award or by the Coal Wage Board recommendations. But promotion from one category to another having specific job nomenclature in each of the categories would depend upon the vacancy in a post, and the order of the management, directing anyone of the clerical establishment either in grade II or grade III to do the work to be done by a person with a definite job nomenclature in a specific higher grade. So, the vacancy and the order of the management to fill up the vacancy in a post in the higher grade would entitle a clerk in a post in the lower grade to promotion. The management is the sole authority in personnel matters including promotion *inter se* of all eligible employees and the Supreme Court can interfere within certain limits upon the management's discretion on certain well defined principles (B. A. Nigam vs Registrar of M. P. High Court, 1972 LIC 95). Now, in considering the fitness and suitability of a clerk in the lower grade for holding a post with a job nomenclature in the higher grade, the discretion of the management cannot be fettered with by any other authority not to speak of the Tribunal. Promotion cannot be claimed by any servant as a matter of right. The management has its prerogative to consider as to who would be the most suitable person for being promoted from lower to higher grade. The suitability may depend on various factors: seniority, good service record and the management's subjective consideration in regard to trust or confidence that it can repose in the selected candidate. If the management discriminate amongst the clerks, eligible for promotion with some oblique motive or with any mala fide intention, and prefers one to the other, when both being equally eligible, among all those that are also eligible for consideration, the Tribunal certainly can interfere but still the Tribunal cannot say as to who should be preferred to whom. All the eligible candidates should be considered and each case should be assessed by the management and management shall have to exercise its best and honest discretion in making selection. But in the present case there has been no promotion of any grade II clerk to any post in grade I since the retirement of Pandey. As I find Pandey had to be placed in grade I of Wage Board recommendations because he had been placed in grade I of the Company before the Wage Board recommendations came. If Pandey would not have been placed in grade I of the Wage Board recommendation, the company would have been guilty of violating the Wage Board recommendations. With the retirement of Pandey the post of accounts clerk is remaining vacant as I was asked to hold; but I find that when Pandey was accounts clerk he had three assistants in the *zemindari* department. So, in the *zemindari* department there were four clerks. Now, at present even in *Zemindari* department there are four *zemindari* clerks. Workman, Dey, has not yet been designated as accounts clerk so he is a *zemindari* clerk. Now, if

he thinks that his status will increase if he is designated as accounts clerk, it is for the management to consider but that would not entitle him to claim pay in grade I because as accounts clerk, the nature of his duties and the degree of trust and responsibilities involved in the performance of his duties cannot be the same as those of a gomasta a grade I clerk in the zamindari department, as shown in Appendix VI of the Coal Wage Board recommendations. So, Mr. Lal Gupta's argument for the union that by not promoting any clerk of grade II to grade I, since the retirement of Pandey, and forcing Dey the workman to perform the duties both of zamindari clerk and accounts clerk in the zamindari department, the management was indulging in unfair labour practice and with a malafide motive has no legs to stand upon when analysed in the context of the facts and circumstances as reviewed above. I do not believe that Sree Dey's volume of work has increased and he is along doing work done by two men. He indulged in rank falsehood. From 1962 till today four workmen have been working in zamindari section when zamindari had been abolished in 1955 and of the nine collieries the management has now only five. There may be, I think, some scope for retirement of clerks in zamindari section.

19. In the result, none of the points upon the materials considered by me, succeeds. Now, if anybody from outside is appointed a gomasta in grade I in the zamindari department superseding the claim of S. P. Dey, workman or any of the clerks in zamindari department even in that case also in view of the decision of the Supreme Court in *Vishnu Sugar Mills Ltd.*, 1960 II LLJ, 272 Sc., the management cannot be stigmatised as indulging in any unfair labour practice, but that is not the case here.

20. In the result, I hold that there is no substance in the dispute raised by the Union on behalf of the workman and the workman is not entitled to all that he has claimed within the scope of the dispute referred to for adjudication by this Tribunal. The reference is, This is my award.

Dated,

April 4, 1972

(Sd.) S. N. BAGCHI,
Presiding Officer
[No. C/70/70-LRII.]

S.O. 1025.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited, Post Office Bellampalli (Andhra Pradesh), and their workmen, which was received by the Central Government on the 13th April, 1972.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT:

Sri P. S. Ananth, B. Sc., B. L. Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE No. 28 OF 1971

BETWEEN:

Workmen of Singareni Collieries Company Limited, Bellampalli.

AND

Management of Singareni Collieries Company Limited, Bellampalli.

APPEARANCES:

Sri B. Gangaram, Vice President, Singareni Collieries workers' Union, for the workmen.

Sri M. Shyam Mohan, Personnel Officer, Singareni Collieries Company Limited, for the Management.

AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment) by its letter No. 7/26/69-LRII, dated 16th February, 1970 referred the following dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for adjudication by this Tribunal, namely,

"Whether the action of the Management of Messrs Singareni Collieries Company Limited, Bellampalli Division, Post Office Bellampalli (Andhra Pradesh), in terminating the services of Shri Avunoori Posham, Plate Layer, Shantikhani, of Bellampalli Division with effect from the 14th April, 1968 is justified? If not, to what relief is the workmen entitled?"

This reference was taken on files as Industrial Dispute No. 28 of 1971 and notices were issued to the parties. The petitioner was a workman in Singareni Collieries Company Limited, Bellampalli. The respondent is Singareni Collieries Company Limited, Bellampalli. The petitioner filed his claims statement and the respondent filed its counter.

2. The contentions of the petitioner in his claims statement in short are these: The petitioner was working as a Plate Layer in Shanti Khani in Bellampalli Division. He was sent to Kothagudem for examination by the Pneumoconiosis Medical Board and he was examined by that Board. The Chief Medical Officer, Kothagudem informed the Union that after examination on 2nd April, 1968 the Medical Board of Kothagudem has declared the petitioner fit for service and declared that he was not suffering from Pneumoconiosis. After coming back to Bellampalli, the petitioner went to the Pit Manager to resume duty but he was not allowed on duty and again he was sent to Bellampalli Medical Board Officer and the Bellampalli Medical Officer declared unfit for further service on the plea that he was suffering from Bronchitis. Thus the action of the Medical Officer Bellampalli is against the decision of the superior authority the Chief Medical Officer, Kothagudem and so it is unjust and unfair and it was done with a bad motive. During 1968 the Management was bent upon reducing labourers and above 4,000 workers were reduced under the voluntary retirement scheme of 1968 and with the motive of reducing the labour strength the Management has taken wrong action in terminating the petitioner's services. Thus the action of the Management in terminating the services of the petitioner is quite unjust. So the petitioner may be reinstated into service with back wages.

3. The contentions of the respondent in its counter in short are these:—It is admitted that the petitioner worked as Plate Layer in Shanti Khani, Bellampalli Division. The petitioner reported for medical treatment at the Collieries Hospital on 4th March, 1968 and was treated for Chronic Bronchitis. On 2nd April 1968 he was examined by the Medical Board for occupational disease namely Pneumoconiosis and he was declared that he was suffering from Chronic Bronchitis and not Pneumoconiosis as the Board is meant for examination of Pneumoconiosis only and having found it in the negative, the petitioner was found fit on 2nd April 1968 as free from Pneumoconiosis. The Bellampalli Medical Board reviewed the petitioner's condition on 13th April, 1968 and declared him unfit for further service as he was suffering from Chronic Bronchitis and pulmonary in sufficiency. The decision did not rest on one Medical Officer but the Medical Board consisting of two Medical Officers at Bellampalli reviewed his case on a later date that is on 13th April 1968 and bona fide decision reached by the Medical Board cannot be turned as unjust or unfair and the allegations of bad motive is denied. That the scheme and wording of voluntary Retirement of 1968 has no relevance to issues involved in the case of a workman who was suffering from certain physical ailments. So the petitioner cannot be reinstated.

4. The dispute now referred for adjudication by this Tribunal is whether the action of the Management of Messrs Singareni Collieries Company Limited, Bellampalli Division, Post Office Bellampalli (A.P.) in terminating the services of Shri Avunoori Posham, Plate Layer, Shanti Khani, of Bellampalli Division with effect from the 14th April, 1968 is justified? If not, to what relief is the workman entitled?

5. It is admitted fact that the petitioner was working as a Plate Layer in the Shanti Khani in Bellampalli Division of Singareni Collieries Company Limited. The petitioner was made unfit for service by Medical Board at Bellampalli on the ground that the petitioner was suffering from Chronic Bronchitis and Pulmonary insufficiency. Ex. M4 is the opinion of the Medical Board, Bellampalli. Ex. M5 is the Medical Certificate dated 13th April, 1968 issued by M.W.1 (Dr. H. M. Jagannadha Rao) subsequent to the opinion given by the Medical Board, Bellampalli. The petitioner represented by the Singareni Collieries Workers Union, Bellampalli raised a dispute and the Vice President of the said Union addressed a letter dated 3rd June, 1969 to the Regional Labour Commissioner (C) Hyderabad. This case was handled by the Assistant Labour Commissioner (C)-II, Hyderabad, who started the conciliation proceedings. After hearing the contentions of both parties he sent the failure conciliation report dated 22nd August, 1969 and pursuant to it the present dispute had been referred to this Tribunal for adjudication.

6. Now the main contention urged by the petitioner is that the termination of the petitioner's services is not justified. The contention of the respondent is that it is only a *bonafide* action taken by the Management in view of the Medical Certificate issued. It is contended by the petitioner's representative that when the petitioner was sent to the Medical Board at Kothagudem the Medical Board examined the petitioner on 2nd April, 1968 and found him fit for service but that when the petitioner came back to Bellampalli and wanted to resume duty, he was declared unfit for service by the Medical Board at Bellampalli and that this opinion of the Medical Board, Bellampalli is quite opposed to the opinion of the Medical Board at Kothagudem. It is also the case of the petitioner as seen from the evidence that M.W.1 was motivated to declare petitioner unfit because the petitioner refused to undergo vesectomy operation. Now it has to be seen whether the action taken by the Management is *bonafide* action which can be justified.

7. The petitioner first reported to the Bellampalli Hospital on 4th March, 1968 complaining of breathlessness on exertion. He appears to have told the out-patient Doctor that he was suffering from this breathlessness for about three years prior to that date. Ex. M1 is the out-patient chit issued to the petitioner. The petitioner was admitted in the hospital as in-patient as seen in the case sheet Ex.M2, on 6th March, 1968. After undergoing some treatment, the petitioner was discharged on 9th March, 1968 and the evidence of M.W.1 is that he was sent to the Medical Board, Kothagudem, that the petitioner was referred to Kothagudem Hospital to be examined by the Medical Board for Pneumoconiosis which is an industrial disease. Ex.M3 is the copy of the letter that was addressed to the Chief Surgeon and Medical Officer, Kothagudem by M.W.1 referring the petitioner and this letter is dated 8th March, 1968. The petitioner appears to have been in the Kothgudem hospital as an inpatient till he was examined by the Medical Board there. The Medical Board at Kothagudem appears to have examined the petitioner on 2nd April, 1968 and they appeared to have discharged the petitioner as fit for service on 2nd April, 1968 on the ground that the petitioner was not suffering from Pneumoconiosis Ex.W2 is said to be the letter dated 27th January, 1969 addressed to the Vice President of the Union and it shows about the Medical Board having examined the petitioner on 2nd April, 1968 and about the petitioner having been discharged as fit for service on 2nd April, 1968. Subsequent to the discharge by the Kothagudem Hospital, the petitioner appears to have come back to Bellampalli and according to him when he wanted to join duty he was not allowed to join duty. According to him M.W.1 said that

he would die if he worked in the coal mines and that he would not allow him to work in the coal mines. According to M.W.1 the petitioner returned from Kothagudem on 7th April, 1968 and that the Medical Board consisting of one Dr. M. V. Naidu, Surgeon, Bellampalli and himself reviewed the petitioner on 13th April, 1968 and that they declared the petitioner unfit for further service and issued the letter Ex.W4 and that he issued the certificate Ex.M5. He further says that the opinion of the Medical Board at Kothagudem is final only as regards Pneumoconiosis cases and that as regards the other diseases it is only Bellampalli Medical Board's opinion that is final. He says that the petitioner was suffering from chronic bronchitis and pulmonary insufficiency and that since bronchitis was aggravating they took final decision on 13th April, 1968 after reviewing the case. He says that he does not remember to have asked the petitioner to undergo any vasectomy operation. He also says that it is not true to say that he is not angry with the petitioner because he did not undergo Vasectomy operation.

8. Now it is seen from the evidence of M.W.1 and the letter Ex.M4 that the Medical Board at Bellampalli consisting of M.W.1 and another Dr. N. V. Naidu examined the petitioner on 13th April, 1968 and declared him unfit as he was suffering from chronic bronchitis and pulmonary insufficiency. Now the evidence of M.W.1 is that the Medical Board at Kothagudem is constituted mainly for the examination of cases to see whether the workmen suffered from Pneumoconiosis whereas in respect of other diseases the opinion of the Medical Board, Bellampalli is final.

9. The respondent's representative contended that there can be examination more than once by the medical authorities and that simply because the petitioner was examined by the Medical Board at Kothagudem for Pneumoconiosis it does not mean that the Medical Board at Bellampalli is precluded from examining the petitioner for other diseases. No doubt it is now seen that the Medical Board at Kothagudem discharged the petitioner as fit for service when they examined the petitioner on 2nd April, 1968 but as rightly contended by the respondent the petitioner was found fit only so far as Pneumoconiosis is concerned. Even from Ex.W2 it is seen that the Medical Board at Kothagudem found that the petitioner was suffering from chronic bronchitis. It also shows that that the Medical Board declared that the petitioner was suffering from chronic bronchitis and not Pneumoconiosis. Ex. W2 does not at all show that the petitioner was found fit even though he was suffering from chronic bronchitis. So it is only the Medical Board at Bellampalli which is competent to go into the question as to whether the petitioner was fit for service, though he was suffering from chronic bronchitis and breathlessness. So this is not a case where the Medical Board at Bellampalli has disregarded any opinion of the superior officers. Even the letter Ex.M3 shows that the petitioner was referred to Kothagudem Hospital to exclude pneumoconiosis and now Ex.W2 shows that the petitioner was not suffering from Pneumoconiosis. As already stated that Medical Board at Kothagudem found that the petitioner was suffering from bronchitis. Now the evidence of M.W.1 is that as the bronchitis was aggravating the Medical Board at Bellampalli took a final decision on 13th April, 1968 after reviewing the case.

10. Now the petitioner wants to say that M.W.1 was angry with him because he did not undergo Vasectomy operation and so he made him unfit. But now from Ex. M4 it is seen that the Medical Board consisted of two doctors including M.W.1. There is nothing suggested against that other doctor viz. Dr. M. V. Naidu, who is said to be the President of the Board as seen from Ex.M4. Even the petitioner in his evidence says that M.W.1 told him that he would die if worked in the coal mines and so he would not allowed him to work in the coal mines. So this itself shows that M.W.1 had taken the physical condition of the petitioner into consideration and told him that he would die if he worked in the coal mines. M.W.1 is a Medical Officer and so he is bound to know some thing about the physical condition of a

person when compared to a lay man. I am convicted that finding that there is no other way to get over the opinion given by the Medical Board at Bellampalli, the petitioner has come forth with a case in the course of his evidence that M.W.1 was angry with him and so he made him unfit. As already stated besides M.W.1 another doctor had also examined the petitioner on 13th April, 1968 and they found him unfit for service as he was suffering from chronic bronchitis and pulmonary insufficiency. From Ex.M1 it is seen that even at the very first instance the petitioner complained of breathlessness and exertion. When there is breathlessness and exertion certainly a person suffering from breathlessness and exertion will not be fit for doing any hard work especially in the coal mines. So under the circumstances it cannot be said that M.W.1 was motivated in making the petitioner unfit for service. I am satisfied that even though the Medical Board at Kothagudem had found the petitioner fit for service that fitness for service relates only so far as Pneumoconiosis disease is concerned but that opinion has nothing to do with the chronic bronchitis and pulmonary insufficiency that the petitioner was suffering from and that so far as the chronic bronchitis and pulmonary insufficiency is concerned, it is only the opinion of the Medical Board at Bellampalli that is final. It is only after the examination of the petitioner by two doctors and reviewing the petitioner's case the Medical Board at Bellampalli gave the opinion that the petitioner was unfit for service as he was suffering from chronic bronchitis and pulmonary insufficiency.

11. It is also the contention of the petitioner that during 1968 the respondent was bent upon reducing the labour strength and that above 4,000 workers were reduced under the Voluntary Retirement Scheme and that with the motive of reducing the labour strength the Management has taken wrong action in terminating the petitioner's services. As rightly contended by the respondent's representative the Voluntary Retirement Scheme has nothing to do with the termination of the services of the petitioner. The petitioner himself admits that he knows about the Voluntary Scheme and that in 1968 several workmen gave letters of resignation stating that if money is paid they would resign and that the Company paid Rs. 500.00 to Rs. 1,000.00 as *ex-gratia* and service gratuity to those who gave such resignation letters. So it is clear that this voluntary scheme of retirement is only with reference to those persons who were willing to take advantage of that scheme and if the petitioner wanted to take advantage of that scheme he also could have applied and the respondent would have considered his case also. Now the evidence of the petitioner is that he did not give any such letter to the respondent. So far as the petitioner is concerned the evidence in this case shows that he was medically found unfit. So under the circumstances it cannot be said that the respondent in order to reduce labour strength took wrong action in terminating the services of the petitioner.

12. As rightly contended by the respondent's representative if it is a case of the petitioner that he was all right and that the bronchitis that he was suffering from did not in any way impair his physical condition certainly he would have got himself examined by other medical practitioners, because under 15(1)(c)(2) of Mine Regulations, the workmen can get themselves examined by other medical practitioners and obtained certificates. But in this case the petitioner did not take any such course and it is only after about an year after the petitioner was found unfit, the petitioner through his Union addressed a letter to the Regional Assistant Commissioner raising an industrial dispute. So this belated action on the part of the petitioner clearly shows that it is only by way of after-thought that the petitioner raised this industrial dispute.

13. On a consideration of the whole evidence placed before me I am satisfied that the Medical Board at Bellampalli acted *bona fide* in giving the opinion that the petitioner was suffering from chronic bronchitis and pulmonary insufficiency and so he was unfit for services and so the action of the respondent in terminating the services of the petitioner is justified.

14. In view of my finding that the action of the respondent in terminating the services of the petitioner is justified, the question of reinstatement with back wages does not arise. Even if for any reason it is held that the petitioner is entitled to reinstatement, the question of payment of back wages does not arise because the evidence of the petitioner is that after he was made unfit he was making out his livelihood by doing earth work in Golati village. So it is not as if he could not find any other employment during the period he was not in service and so even if he is reinstated into service he will not be entitled to any back wages.

15. For all the aforesaid reason, I hold that the action of the Management of M/s. Singareni Collieries Company Limited, Bellampalli Division, Post Office Bellampalli (Andhra Pradesh) in terminating the services of Shri Avunoori Posham, Plate Layer Shantikhani, of Bellampalli Division with effect from the 14th April, 1968 is justified and so the petitioner is not entitled to be reinstated with back wages.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal, this the 18th day of January, 1972.

(Sd) P. S. ANANTH
Industrial Tribunal.

APPENDIX OF EVIDENCE

Witnesses examined for Workmen	Witnesses examined for Employers
W.W. 1 : Avunoori Posham.	M. W. 1 : Dr. H. H. Jagannadha Rao.

Documents Exhibited for workmen.

- Ex. W 1 : Conciliation report dt. 4-9-1969 of Assistant Labour Commissioner (c) Hyderabad, addressed to the Secretary to Govt. of India, Labour & Employment, New Delhi.
- Ex. W 2 : Letter dt. 27-12-1968 of Chief Surgeon and Medical Officer of Singareni Collieries Hospital addressed to the Vice President, S.C. Workers Union, Bellampalli, stating that pneumoconiosis Medical Board declared that A. Posham was suffering from chronic bronchitis and not pneumoconiosis.

Documents Exhibited for Employers

- Ex. M 1 : Out patient chit dt. 4-3-1968 of S.C. Co., Ltd., Hospital, Bellampalli.
- Ex. M 2 : In patient sheet dt. 6-3-68 of S.C. Co. Ltd., Hospital, Bellampalli.
- Ex. M 3 : Letter dt. 8-3-1968 of the Surgeon, S. C. Co., Ltd., Hospital Bellampalli addressed to Chief Surgeon & Medical Officer, S. C. Co., Ltd., Hospital, Kothagudem, for admission and to exclude pneumoconiosis.
- Ex. M 4 : Certificate dt. 14-4-68 issued by Medical Board, S.C. Co., Ltd., Hospital, Bellampalli stating that Shri A. Posham unfit for service.
- Ex. M 5 : Certificate dt. 13-4-1968 issued by Medical Officer S. C. Co., Bellampalli stating that Shri A. Posham was permanently incapacitated for work.

(Sd) P. S. ANANTH,
INDUSTRIAL TRIBUNAL.

New Delhi, the 21st April 1972

S.O. 1026.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the management of Coal Washing Plant Jamadoba of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad, and their workmen, which was received by the Central Government on the 17th April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 9 OF 1971

In the matter of an industrial dispute under S.10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the Coal Washing Plant Jamadoba of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad.

AND

Their workmen.

APPEARANCES:

On behalf of the employers.—Shri S. S. Mukherjee, Advocate.

On behalf of the workmen.—Shri B. N. Sharma, President Congress Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 13th April, 1972. 24th Chaitra, 1893 Saka

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Coal Washing Plant Jamadoba of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen, by its order No. 2/124/70-LRII dated 19th December, 1970 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the action of the management of Coal Washing Plant Jamadoba of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad in refusing employment to Shri Rajendra Prasad Sinha, Clerk Grade-III, with effect from the 17th June, 1969 is justified? If not to what relief the workmen is entitled?"

2. Workmen as well as the employers filed their statements of demands.

3. The case of the workmen is simple and it is that the affected workman, Rajendra Prasad Sinha was in continuous employment for over a year in the coal washing plant, Jamadoba of the employers and his services were verbally terminated on 17th June, 1969 without assigning any reason. Thus, the demand of the workmen is that the order of termination of service of the affected workman be set aside and the relief of reinstatement with full back wages and all benefits be given to him. The employers pleaded that the service of the affected workman was purely temporary and that it came to an end on the expiry of the period for which

he was appointed and also because his temporary service was not satisfactory, he was not given further extension in his service. The workmen were represented by Shri B. N. Sharma, President, Congress Mazdoor Sangh and the employers by Shri S. S. Mukherjee, Advocate. On admission by the employers, Exts. W.1 to W.3 for the workmen and on admission by the workmen, Exts. M1 to M13 for the employers were marked. On behalf of the workman the affected workman was examined. On behalf of the employers also a witness was examined and Exts. M14 to M16 were marked.

4. It is admitted by the workmen that the affected workman was first appointed as a clerk, grade III by a letter, Ext. M1 for a period of 3 months from 1st March, 1967 at Digwadih Colliery. He continued at the colliery till 7th March, 1968. On 8th March, 1968 he was informed by the manager of the colliery that his service was discontinued. The Chief Mining Engineer, by the letter, Ext. M2 dated 18th March, 1968 directed the affected workman to join his duties at Central Coal Washing Plant, Jamadoba for 3 months from 20th March to 19th June, 1968. Thereafter the management by orders, Exts. M3, M4, M5 and M6 extended his service upto 16th June, 1969. The complaint of the workmen is that the service of the affected workman was terminated with effect from 17th June, 1969 and it was not justified. So, it emerges that the service of the affected workman at Digwadih was temporary and it was from 1st March, 1967 to 7th March, 1968 and he was appointed a fresh also for a certain period from 20th March, 1968 to 19th June, 1968 by Ext. M2. Ext. M2 clearly states that the affected workman was appointed as a temporary clerk and that his service could be terminated any time either at the expiry of the period or earlier, as the case may be, without any further notice. Ext. M3 also states that the service as temporary clerk, grade III of the affected workman was extended for a further period of 3 months. Ext. M4 also repeats that the service as a temporary clerk, grade III of the affected workman was extended for another 3 months. By Ext. M5 temporary service as clerk grade III of the affected workman was extended for another 3 months. Ext. M6 is the last letter by which the temporary service of the affected workman as clerk grade III was extended for 3 months with effect from 17th March, 1969. The last extended period had expired on 16th June, 1969. This is the admitted case of the workmen. Shri B. N. Sharma, the learned representative of the workmen has argued that the service of the affected workman at the coal washing plant, Jamadoba was continuous for over a year upto 16th June, 1969 and as such the employers were bound to further extend his service and they were not justified in terminating it. I could not see how the affected workman could claim the right to be treated as a permanent employee when he was appointed purely on temporary basis and his temporary appointment was being extended from time to time for fixed periods. On the expiry of the period of last extension given to him he must automatically be out of office. There is no provision in the standing orders, Ext. M13 that a temporary workman should be treated as permanent automatically after the completion of a period of one year. It is not even the pleading of the workmen that the affected workman was working on a temporary basis in a vacant permanent post. The employers have also pleaded that the temporary service of the affected workman was not satisfactory. According to them the affected workman had misbehaved with the engineer, coal washing plant for which a charge-sheet, Ext. M7 dated 29th May, 1969 was issued to him, domestic enquiry was held against him in his presence, in the enquiry the affected workman was found guilty of the charge and the affected workman himself had tacitly admitted his guilt during the enquiry. Ext. M7, charge-sheet is an admitted document. It was stated in it that on 19th May, 1969, when the engineer, washing plant asked him regarding discrepancy in the weighment of the wagons, the affected workman started shouting at the engineer in presence of the yard master. The affected workman submitted his explanation denying

the charge. The affected workman, as WW.1 has admitted that a domestic enquiry was held against him by MW.1 in respect of Ext. M7. The evidence of MW.1 is that he held a domestic enquiry into the charge-sheet, Ext. M7 issued to the affected workman, that the affected workman was present during the enquiry, that he cross-examined both the witnesses for the management and did not examine any defence witness, that the affected workman gave his own statement, that MW.1 read over the statements and explained them to the affected workman who affixed his signature to them in token of their being correct and that as a result of the enquiry he submitted the report, Ext. M15. Ext. M14 are the enquiry proceedings. Through Ext. M15, MW.1 found the affected workman guilty of the charge. The statement of the affected workman given during the domestic enquiry starts from page 10 of Ext. M14. In the examination-in-chief itself at page 15 the affected workman had stated, "if I had spoken at the top of my voice I ask pardon and I may be excused". He was cross-examined by the engineer, Iqbal Mahmood. Again the affected workman repeated in the cross-examination, "I might have misbehaved with you on that day because that time I was very much confused and upset". When he was again asked why he was confused and upset at that time the affected workman answered "I cannot say why I was confused on that date". In the charge-sheet, Ext. M7 it was mentioned that the affected workman had shouted at the engineer in the presence of the yard master. In the explanation the affected workman also had stated that the incident took place in presence of the yard master. The yard master, B. J. Rao was examined in the domestic enquiry as management's witness No. 2. He had deposed "Shri Sinha then started shouting on him (engineer) at the top of his voice and said that he was not supposed to take the weighing". Of course, the engineer, Iqbal Mahmood had deposed against the affected workman. On this material it cannot be said that either the domestic enquiry was vitiated by any principle of natural justice or that the finding of the enquiry officer was perverse. Hence, I find substance in the contention of the employers that the affected workman was not given further extension in his service, firstly because his appointment was temporary and the period of his appointment had expired by 16th June, 1969 and, secondly, because his temporary service was not found satisfactory.

5. I, therefore, find that the action of the management of Coal Washing Plant, Jamadoba of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad in refusing employment to the affected workman, Rajendra Prasad Sinha, clerk grade-III with effect from the 17th June, 1969 was justified and consequently, the affected workman is not entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer.

Central Government Industrial Tribunal (No. 2),
Dhanbad

[No. 2/124/70-LRII.]

S.O. 1027.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan and their workmen, which was received by the Central Government on the 16th April, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 39 OF 1971.

PARTIES:

Employers in relation to the management of
Bankola Colliery,

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi—Presiding Officer.

APPEARANCES:

On behalf of Employers.—Sri Monoj Kr. Mukherjee,
Legal Adviser, with Sri S. N. Saigal, Personnel
Officer.

On behalf of Workmen.—Sri Rajdeo Singh, Presi-
dent, Bankola Workers' Union.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/50/70-LRII, dated 19th February, 1971, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred an industrial dispute existing between the employers in relation to the management of Bankola Colliery, Post Office Ukhra, District Burdwan and their workmen, to this Tribunal, for adjudication, namely:

"Whether the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan was justified in denying the claim of Sarvashri Md. Umar Khan and Ram Singh employed at Bankola Colliery for the post of Loading Supervisor and peon with effect from the 18th January, 1970 and the 9th August, 1965 respectively? If not, to what relief these workmen are entitled?"

2. In this reference the management and the union represented by Sri Rajdeo Singh, President of Bankola Workers' Union have entered into a compromise of the dispute between the management and the workmen and they have recorded the terms of compromise and have asked this Tribunal to pass an award in terms of the compromise petition which should form part of the award. The terms of compromise have been accepted by both the parties.

3. I have gone through the terms which are just, fair and equitable and are beneficial to the workmen concerned. The workmen who is concerned with this reference as well as with Reference No. 52 of 1971, under the terms of compromise of both the reference, has got a higher situation with higher pay. Therefore the combined effect of the two compromise has been beneficial to the workman concerned. I, therefore, record the compromise which shall form part of the award.

4. In terms of paragraph 1(b) of the compromise if Sri Umar Khan is appointed Loading Supervisor as agreed upon, he will be given the scale of pay of Category III workman as per Coal Wage Board recommendations.

Thus I render my award.

Sd./- S. N. BAGCHI,
Presiding Officer.

Dated, 12th April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

REFERENCE No. 39 OF 1971

Management of Bankola Colliery of the Burrakur
Coal Co. Ltd., P.O. Ukhra, Dt. Burdwan.

vs.

Their workmen represented through the Bankola
Workers' Union, Safique Nagar, P.O. Ukhra,
Dist. Burdwan.*The humble joint petition of the parties above named
most respectfully sheweth:*1. That without going into the merits of the respective
case the parties have settled and resolved their dispute
under reference on the following terms:

- (a) The management was justified in denying the claim of Sarvashri Md. Umar Khan and Ram Singh for the post of Loading Supervisor and Peon with effect from 18th January, 1970 and 9th August, 1965 respectively as according to the records of the management they were both casual shale pickers.
- (b) Sri Umar Khan who has been employed as permanent Shale picker in terms of Settlement in Reference No. 52 of 1971 will be designated as loading Supervisor from July, 1972 if his work is found satisfactory.
- (c) Sri Ram Singh will be employed as permanent Shale Picker with effect from 13th April, 1972 and placed in Category I with a starting basic salary of Rs. per day.
- (d) That the Union shall have no further claim whatsoever in relation to the dispute in respect of S/Shri Umar Khan and Ram Singh.

2. That the terms of settlement are fair and reasonable.

3. That the parties shall bear their costs in this Reference.

The parties to the dispute accordingly pray that the Hon'ble Tribunal may be pleased to accept this compromise petition and pass an award in terms of the above settlement treating this petition as part of the award.

For Workmen.

RAJDEO SINGH,
President,
Bankola Workers' Union.

For Management

S. N. SAIGAL,
Personnel Officer,
Bankola Colliery.(Sd.) MONOJ MUKHERJEE,
Legal Adviser,
Bankola Colliery.

Dated 12th April, 1972.

[No. 6/50/70-LRII.]

S.O. 1028.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan and their workmen, which was received by the Central Government on the 18th April, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA.

REFERENCE No. 52 OF 1971

PARTIES:

Employers in relation to the management of Bankola Colliery of Messrs Burrakur Coal Company Limited.

AND

Their workmen.

PRESENT:

Sri S. N. Bagchi—Presiding Officer.

APPEARANCES:

On behalf of Employers.—Sri Monoj Kr. Mukherjee,
Legal Adviser, with Sri S. N. Saigal, Personnel
Officer.On behalf of Workmen.—Sri Rajdeo Singh, President,
Bankola Workers' Union.

STATE: West Bengal

INDUSTRY: Coal Mines

AWARD

By Order No. 6/82/70-LRII, dated 26th March, 1971, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan and their workmen, to this Tribunal, for adjudication, namely:

Whether the management of Bankola Colliery of Messrs Burrakur Coal Company Limited, Post Office Ukhra, District Burdwan was justified in stopping from work Shri Umar Khan, Shale Picker from 30th June, 1970? If not, to what relief the workman concerned is entitled?

2. This reference has connection with Reference No. 39 of 1971 relating to the same workman represented by the same Union. But as the two references are separate, there should be two awards. In this reference the management and the Union representing the workman filed a compromise petition wherein the terms of compromise have been recorded. The parties have applied for recording the compromise and pass an award in terms of compromise and to make the petition of compromise a part of the award.

3. I have heard the learned Counsel for the management and Mr. Singh, President of the Bankola Workers' Union. The terms are fair, just and equitable and to the benefit of the workman concerned. I, therefore, record the terms of the compromise and pass an award accordingly. The compromise petition shall form part of the award.

I thus render this award.

Dated, 12th April, 1972.

(Sd.) S. N. BAGCHI,
Presiding Officer.BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

REFERENCE No. 52 OF 1971

Management of Bankola Colliery of the Burrakur
Coal Company Ltd., P. O. Ukhra, District
Burdwan,

vs.

Their workmen represented through the Bankola
Workers' Union, Safique Nagar, P.O. Ukhra,
District Burdwan.*The humble joint petition of the parties above named
Most Respectfully Sheweth:*1. That without going into the merits of the respective
case the parties have settled and resolved their dispute
under reference on the following terms:

- (a) The management was justified in stopping Shri Umar Khan from work from 30th June, 1970, as he was a casual worker.
- (b) The management however in terms of compromise effected has employed Sri Umar Khan as permanent Shale Picker in Category II with a starting basic salary of Rs. 5.95 per day with effect from 3rd April, 1972.

- (c) That the Union shall have no further claim whatsoever in relation to the dispute in respect of Shri Umar Khan.

The parties to the dispute jointly pray that the Honorable Tribunal may be pleased to pass an award in terms of the above settlement treating this petition as part of the award.

For workmen.

(Sd.) RAJDEO SINGH,
President,
Bankola Workers' Union.

For Management:

(Sd.) S. N. SAIGAL,
Personnel Officer,
Bankola Colliery.

(Sd.) MONOJ MUKHERJEE,
Legal Adviser,
Bankola Colliery.

Dated, 12th April, 1972.

[No. 6/82/70-LRIL.]

KARNAIL SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 12th April, 1972

S.O. 1029.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the Dehri Rohtas Light Railway Company Limited, Dalmianagar and their workmen, which was received by the Central Government on the 4th April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(i) (d) of the Industrial Disputes Act, 1947.

REFERENCE No. 52 of 1971.

PARTIES:

Employers in relation to the Dehri Rohtas Light Railway Company Limited, Dalmianagar

AND

Their workmen.

PRESENT:

Shri A. C. Sen, Presiding Officer.

APPEARANCES:

For the Employers.—Shri S. S. Mukherjee, Advocate.

For the Workmen.—Shri B. Lal, Advocate.

STATE: Bihar.

INDUSTRY: Railway.

Dhanbad, dated the 24th March, 1972.

The present reference arises out of Order No. L.41011/27/71/LRIL, dated New Delhi, the 26th August, 1971, passed by the Central Government in relation to an industrial dispute between the parties mentioned above. The dispute is in relation to the matters specified in the schedule to the aforesaid order which runs as follows:—

“Whether the management of Dehri Rohtas Light Railway Company Limited, Dalmianagar is justified in proposing to retire Shri K. N. Mishra, Guard with effect from the 14th November, 1971. If not, to what relief the workman is entitled?”

2. The case for the workmen as made out in their written statement filed on 11th October, 1971 is set

out below. Shri K. N. Mishra, the concerned workman joined the Railway Company as Guard in the year 1938. He produced his school leaving certificate to the employer in the year 1953 in support of his age, but the employer did not correct his age as per certificate on his personal file. The employer never intimated him that the age given in the school leaving certificate could not be accepted. His age was kept in secret by the employer and all of a sudden he was intimated that he would retire from service on 14th November, 1971, though according to the School Leaving Certificate he will attain the age of retirement viz., 58 years—1930.

3. It has been stated in para 2 of the employer's written statement filed on 4th November, 1971, that no dispute was raised by the concerned workman or any union on his behalf directly with the employers and that, therefore, the reference is bad in law and is liable to be summarily dismissed. I, however, intend to dispose of the matter on merits.

4. According to the employer the concerned workman was appointed as Guard on 19th July, 1938. It is, therefore, the common case of the parties that the concerned workman was appointed in 1938.

5. The case for the employer as set out in paragraphs 4 to 8 of the employer's written statement may be summarised as follows. The Dehri Rohtas Light Ry. Employees Union, the only registered, recognised and active Trade Union of the Company submitted a charter of demands, and after discussion and negotiation a settlement was arrived at on 2nd August, 1953. The relevant settlement regarding the age of superannuation was as follows: “The superannuation age for retirement is fixed at 55 years. With regard to those persons whose age cannot be assessed and verified, those case will be referred to Medical Officer of the Railway who will give his final decision regarding age of those employees”. The concerned workman was asked by a letter dated 26th August, 1953 to submit the proof of his age by 6th September, 1953. As he failed to submit any proof of his age he was directed to appear for Medical Examination for assessment of his age on 14th November, 1953, and on that date the Medical Officer of the Railway examined him and assessed his age as 40 years on 14th November, 1953.

6. It is not disputed that thereafter the age of retirement was enhanced from 55 years to 58 years.

7. It has been stated in paras 10 and 11 of the employer's written statement that as per the assessment of age by the Medical Officer, the concerned workman was to attain the age of retirement, namely, 58 years on 13th November, 1971 and that accordingly a letter dated 9th May, 1971 was issued to him informing him that he was to retire on and from 14th November, 1971.

8. It has been stated in para 13 of the employer's written statement that the concerned workman on learning that he was to retire in November, 1971 wrote a letter dated 12th February, 1971, to correct his date of birth as per copy of testimonial from the Head Master, H.P.D. Jain School, Arrah. It has further been stated that a reply dated 4th March, 1971 was given by the company informing him that the age already recorded could not be altered.

9. It has been pointed out in para 15 of the employer's written statement that the date of birth mentioned in the said testimonial of the Head Master, namely, 17th January, 1922, was not only open to doubt but was contrary to other contemporaneous documents and other facts.

10. It has been stated in para 7 of the rejoinder submitted by the workmen on 3rd December, 1971, that medical officer did not examine the concerned workman to assess his age and that his age was never assessed as 40 years on 14th November, 1953. It has

been admitted in para 10 of the rejoinder that a letter dated 9th May, 1971, was issued to the concerned workman informing him that he was to retire on and from 14th November, 1971.

11. An entirely new case was made by the workmen in para 16 of their rejoinder. Therein it has been stated that when the concerned workman was appointed for the first time on 19th July, 1938, his age was duly ascertained by the Medical Officer of the employer and was recorded and admitted by the employer in the service Agreement Form which is the service File of the workman maintained by the employer. The workmen have pointed out that according to that recorded and admitted date of birth it falls sometime in February, 1917.

12. The workmen have admitted in para 12 of their rejoinder that the concerned workman wrote a letter dated 12th February, 1971; to the employer to correct his date of birth as per copy of a testimonial from Head Master, H.P.D. Jain School, showing his date of birth on 17th January, 1922.

13. According to the employer, the workman concerned was asked to submit his proof of age by a letter dated 26th August, 1953, but he failed to do. The workmen have stated in their written statement that the workman concerned produced his school leaving certificate to the employer in 1953 in support of his age. The witness No. 1 for the workmen, who is the concerned workman himself, has stated in his examination in chief that he produced the school certificate in 1953 on being asked by the management to submit proof of his age. He has, however, admitted that he has no proof to show that he produced the school leaving certificate in 1953. He submitted another certificate in the year 1971 from the Head Master of the H. P. D. Jain School, Arrah showing his date of birth on 17th January, 1922. That certificate has been produced by the management and has been marked as Ext. M-3. From the trend of the deposition made by the concerned workman it is clear that the school certificate alleged to have been produced by him in 1953 was on the line of the certificate submitted by him in 1971. In other words, according to the concerned workman, his date of birth is 17th January, 1922, and he will attain the retirement age of 58 on 17th January, 1980. But even Shri B. Lal, the learned Advocate appearing for the workmen, concedes that the date of birth given in Ext. M-3 cannot be accepted as correct. As a matter of fact, he relies upon the service record of the workman concerned. Ext. M-7 as proof of his age and not upon Ext. M-3.

14. I should like to consider the evidentiary value of Ext. M7, the service form of the concerned workman. It appears from Ext. M7 that he was appointed on 19th July, 1938. Along with other particulars, such as name, father's name, permanent address etc. it mentions his age as 21 years. It bears the signature of the concerned workman and of the appointing officer. There is a marginal note "40 years" against "age" over an illegible signature dated 17th November, 1953. As the workman rely upon Ext. M7 they must also accept the marginal note indicating that the age of the concerned workman was 40 years near about the date mentioned beneath the note, namely 17th November, 1953.

15. There are further and better reasons why the age in the marginal note of Ext. M7 should be accepted as correct for the ascertainment of the retirement age of the concerned workman. From Ext. M9 it is clear that there was an agreement between the union and the management on the 2nd of August, 1953 that the age of retirement should be 55 years (subsequently enhanced to 58 years) and that with regard to those employees whose age could not be assessed and verified, their cases would be referred to the Medical Officer of the Railway who would give his final decision regarding age of those employees.

16. It was difficult to assess and verify the age of the concerned workman in August 1953 for his service

record. In Ext. M7 his age was recorded as 21 years on the date of his appointment, namely, 19th July, 1938. In or about July, 1941, the concerned workman was asked to furnish particulars about himself including age. In that information form (Ext. M6) dated 14th July, 1941 he gave his age as 21 years. The age should have been shown as 24 years on the basis of service form Ext. M7. Because of this discrepancy between Ext. M7 and Ext. M6 it was not possible to assess his age correctly. Moreover Ext. M7 does not indicate that the age therein was recorded on the basis of any independent proof of the age of concerned workman other than his verbal declaration.

17. The management asked the workman concerned by a letter dated 26th August, 1953 to submit the proof of his age by 6th September, 1953. This letter has been marked as Ext. M5. The last time of the letter says: "This is urgent". In view of the discrepancy between Exts. M6 and M7 the management was perfectly justified in issuing this letter. The concerned workman as WW1 has stated that he submitted to the management his school certificate in 1953 as proof of his age. There is nothing on record to show that any school certificate was submitted by the workman concerned in 1953 in proof of his age. The workmen in their application dated 3rd December 1971 calling for documents from the employer did not include the school certificate alleged to have been submitted in 1953. This too confirms the inference that no such certificate was submitted by the workman concerned in 1953 in proof of his age.

18. According to Ext. M-9, the agreement between the union and the management, dated 2nd August, 1953, the case of a man whose age cannot be assessed and verified shall be referred to the Medical Officer who will give his final decision regarding his age. Ext. M-10 is the "Medical Examination Report Form" containing various particulars about the workman concerned including his age. It is dated 14th November 1953. It bears the signature of the Medical Officer of the Railway Company. The Medical Officer appeared before the Tribunal and deposed as witness No. 2 for management. He has definitely stated that the workman concerned was examined on the date given in Ext. M-10, that is, on 14th November, 1953, for the assessment of his age. It was not suggested to him in cross-examination that no medical examination of the concerned workman took place on 14th November 1953. The only suggestion that was made to him was that the said medical examination was made not for the purpose of ascertaining his age but for the purpose of testing his fitness for further service.

19. It is therefore clear that the concerned workman was medically examined on 14th November, 1953. Now the question is whether he was examined for the purpose of the ascertainment of his age. MW2 the medical officer, has categorically stated that he examined the concerned workman for the assessment of his age. This is highly probable in the facts and circumstances of the case. There was uncertainty about the age of the concerned workman. He failed to submit only proof of his age even though he was required to do so by a letter dated 26th August, 1953, (Ext. M5). It was not suggested to the witness No. 1 for the management that Ext. M5 is a spurious document. Moreover, the workman concerned ascertained that he submitted his school certificate as a proof of his age in 1953. He would not have made that assertion had he not received Ext. M5. I have already shown that in fact no school certificate was submitted by the concerned workman in 1953. That being the position it was highly probable that he was asked to appear before the Medical Officer for the ascertainment of his age as per agreement between the union and the management dated 2nd August, 1953. I am inclined to accept the testimony of the Medical Officer, MW2 that he examined the concerned workman for the ascertainment of his age.

20. It is not at all necessary for me to consider the procedure adopted by the Medical Officer in ascertaining the age of the concerned workman, because according to the bipartite agreement dated 2nd August 1953, (Ext. M9) the Medical Officer was to give his final decision regarding the age of an employee in the position of the concerned workman. Ext. M10 contains the decision of the Medical Officer as to the age of the concerned workman. That must be accepted as final. He may be right, he may be wrong in his decision, but that cannot be questioned before the Tribunal. As soon as it is found that the age has been decided by the Medical Officer, the Tribunal is bound to accept that as final. I am, therefore, bound to accept the age mentioned in Ext. M10 and to hold that he is to retire from service on and from the 14th November, 1971.

21. For the reasons stated above the only award possible in this case is that the management of Dehri Rohtas Light Railway Company Ltd. is justified in proposing to retire Shri K. N. Mishra, Guard with effect from the 14th November, 1971, and I award accordingly.

22. Let a copy of this award be forwarded to the Central Government under Sec. 15 of the Industrial Disputes Act, 1947.

(Sd.) A. C. SEN,

Presiding Officer.

[N. L.41011/27/71/LRIII.]

New Delhi, the 18th April 1972

S.O. 1030.—In pursuance of section 17 of the industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad in the industrial dispute between the employers in relation to Dehri Rohtas Light Railway Company Limited, Dalmianagar and their workmen, which was received by the Central Government on the 13th April, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 13 OF 1969

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to Dehri Rohtas Light Railway Company Limited, Dalmianagar, District Shahabad.

AND

Their workmen.

APPEARANCES:

On behalf of the employers.—Shri S. S. Mukherjee, Advocate

On behalf of the workmen.—Shri B. Lal, Advocate

STATE: Bihar.

INDUSTRY: Railways.

Dhanbad, 7th April, 1972/18th Chaitra, 1893 (Saka)

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Dehri Rohtas Light Railway Company Limited, Dalmianagar and their workmen, by its order No. 2/49/68/LRIII dated 17th September, 1969 referred to this Tribunal under Section 10(1)(d) of the In-

dustrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the demand of the workmen, whose particulars are given below, employed by the management of Dehri Rohtas Light Railway Company Limited, Dalmianagar, District Shahabad, that they should be made permanent is justified?"

Sl. No.	Name of worker	Designation	Date of appointment
1	Shri Ram Kumar Singh	B. T. M. Turner	14-12-63
2	Shri Mukhan Prasad	Electric Khalasi	4-5-63
3	Shri Radha Prasad	Khalasi	21-11-63
4	Shri Raj Nath	Loco Khalasi	11-7-63
5	Shri Seo Prasad	Do.	1-12-66
6	Shri Laxmi Ram	Hammerman	8-11-64
7	Shri Bikchand Sharma	B. T. M. Blacksmith	8-11-64
8	Shri Jawahar	Hammerman	16-7-63
9	Shri Raj Keshwar	Khalasi	11-6-66
10	Shri Bachan Ram Vishwakarma	B.T.H.M. Fitter	1-1-63
11	Shri Chaturbhuj Jha	Khalasi	11-7-63
12	Shri Jang Bahadur Singh	Do.	11-7-63
13	Shri Bhagat Singh	Do.	1-12-66
14	Shri Prabhu	Do.	27-11-63
15	Shri Kuwan Singh	Pointsman	6-4-66.

If so, to what relief are the above workmen entitled?"

2. Workmen as well as the employers filed their statements of demands. The workmen also filed rejoinder to the statement of the employers.

3. The dispute in reference was sponsored before the conciliation Officer and is being pursued before this tribunal on behalf of the workmen of Dehri Rohtas Light Railway Company Limited, Dalmianagar by Dehri Rohtas Light Railways Mazdoor Seva Sangh (hereinafter referred to as the Sangh). Their case is that the 15 affected workmen are casual workers, working in the jobs of permanent nature without break of service since their respective dates of appointment, but the employers did not take them on permanent roll with a view to exploit them and deprive them of the privileges available to permanent workmen. According to them the 15 affected workmen should be made permanent from the date of completion of six months of service from the date of appointment and should be awarded all the monetary and other benefits to which permanent employees are entitled. The employers have admitted that the 15 affected workmen were casual workers but pleaded a settlement dated 20th April, 1965, mutual discussions dated 30th September, 1965, another settlement dated 25th October, 1969 and one more settlement dated 31st May, 1971 between the employers and the Dehri Rohtas Light Railways Employees Union (hereinafter referred to as union) being a recognised, registered and a majority union representing all the workmen of the employers and contended that the dispute referred to has been already settled and that there is no more dispute to be adjudicated. In the rejoinder the sangh has not denied existence of the union or the

settlements and discussions pleaded by the employers. The sangh simply stated that the settlements and the discussions were irrelevant. The sangh was represented by Shri B. Lal, Advocate and the employers by Shri S. S. Mukherjee, Advocate. By consent of the employers, Ext. W. 1 was marked for the sangh. On behalf of the sangh a witness was examined. The employers examined two witnesses and marked Exts. M1 to M28.

4. It is not in dispute that since about 25 years the union is in existence and it has been representing all the workmen of the employers till 30th April, 1965 when the sangh was formed, WW. 1, the solitary witness of the sangh has also admitted this position and stated that he is an executive member of the sangh from 1967. The first settlement pleaded by the employers dated 20th April, 1965 is Ext. M1 and it is a bi-partite settlement between the employers and all their workmen represented by the union. The settlement appears to have arisen out of the charter of demands dated 14th March, 1964 and strike notice dated 19th February, 1965. Para K(a) relates to the agreement that 50 casual employees would be put on the temporary rolls by the end of May, 1965. In respect of the implementation of the settlement, Ext. M1 there were discussion on 30th September, 1965 and the minutes are Ext. M10. As per para 16 of the minutes it was agreed that the wages of casual workers should be increased from Rs. 2.25 to Rs. 2.50 per day with effect from 1st April, 1965. The settlement dated 25th October, 1969 is also a bi-partite settlement between the employers and their workmen represented by the union and it is Ext. M2. In terms of Rule 58(4) of the Industrial Disputes (Central) Rules, 1957 the parties to the settlement sent jointly copies of the settlement to the Central Government, the Chief Labour Commissioner(C), the Regional Labour Commissioner(C), the Conciliation Officer and others, as is evident from Ext. M3 and Exts. M4 to M9. The first term of the settlement was that the casual workmen as on 25th October, 1969 would be put on temporary rolls as per phased programme and that 70 workmen with effect from 1st November, 1969. As per the office orders, Exts. M26 and M27 all 15 affected workmen were absorbed on temporary rolls with effect from 1st November, 1969. These office orders, Exts. M26 and M27 were passed accepting the letters, Exts. M11 to M25 submitted by the 15 affected workmen.

In these letters each of the affected workmen had undertaken to abide by the settlement, Ext. M2 and requested to consider his case for placing him on temporary rolls. Exts. M11 to M27 were filed by the employers on 20th May, 1970 and the solitary witness, WW. 1 on behalf of the sangh was examined on 15th March, 1972. But the witness, WW. 1 had not a word by way of denial of Exts. M11 to M27. None of the affected workmen is examined, Exts. M11 to M27 are proved by the establishment clerk, MW. 1 on behalf of the employers. In the cross-examination no reference is made to these documents. As I have already pointed out, the sangh has not denied, Exts. M1 and M2 settlements which are also proved by MW. 1. In respect of these exhibits also no question was put to the witness in cross-examination. The employers in their written statement had specifically pleaded that the 15 affected workmen were put on temporary rolls with effect from 1st November, 1969 in implementation of the settlement, Ext. M2. The sangh did not deny the fact. WW. 1 avoided the question by expressing his ignorance about the last settlement dated 31st May 1971 is Ext. M28 and it is under Section 12(3) of the Industrial Disputes Act, 1947 in the course of conciliation proceedings. It is signed by the Personnel Officer on behalf of the employers and the Secretary on behalf of the union and also by the Assistant Labour Commissioner(C) Patna, the Conciliation Officer(C) and it is covered by section 18(3) of the Act. As per term No. 2 of the settlement, Ext. M28, 73 temporary workmen named in Annexure B are to be placed on permanent cadre with

effect from 1st December 1972, subject to their being found medically fit and on their being in continued employment on that date. The names of the 15 affected workmen are at Sl. Nos. 10, 44, 45, 46, 47, 48, 49, 60, 61, 62, 63, 64, 69, 71 and 73 in the Annexure B. This settlement, Ext. M28 is proved by MW. 1. But no question was put to him in respect of this settlement on behalf of the sangh. As I have already pointed out, Ext. M28 was pleaded by the employers in their statement but in the rejoinder the sangh did not deny it. Now, the effect of these documents, Exts. M2 and M28 in particular is to be considered.

5. The main contention of Shri B. Lal, the learned Advocate of the sangh is that the sangh was not a party to any of the three settlements or discussions and as such they are irrelevant for adjudication of the reference. It is also submitted that the 15 affected workmen ceased to be members of the union and are members of the sangh ever since the sangh was formed, that at the time of the settlements and the discussions the affected workmen were not members of the union and as such the settlements and discussions are not binding on them. As I have already pointed out and conceded by WW. 1 the workmen of the employers are members of the union and the union is functioning since last 25 years and the sangh is formed on 30th April, 1965. Ext. M1 settlement was on 20th April, 1965 before the sangh was formed. Under this settlement read with the discussions, Ext. M10 the advantage derived by the affected workmen was that their daily wage was raised from Rs. 2.25 to Rs. 2.50 with effect from 1st April, 1965. At the first instance WW. 1 also has admitted as true that all the 15 affected workmen were getting the daily rate at Rs. 2.25 per head, though retracted the statement immediately stating that from the date of their appointment they were getting Rs. 2.50 per head per day. In *C. W. Karamchari Sangh v. Industrial Tribunal, Rajasthan* (1971 Lab. I.C. 143) the Rajasthan High Court has pointed out that a fair settlement arrived at privately and workers taking advantage under the settlement are bound by the settlement and their union cannot challenge it. It is true that by the time of the discussions, Ext. M10, dated 30th September 1965, the settlement, Ext. M2 dated 25th October, 1969 and the settlement, Ext. M28 dated 31st May, 1971, the sangh had started functioning and representing some of the workmen of the employers and to the above discussions, Ext. M10 and the settlements, Exts. M2 and M28 sangh was not a party but the union was a party. The question is whether the discussions, Ext. M10 and the settlements Exts. M2 and M28 are binding on the affected workmen. The question is squarely answered by the Supreme Court in the decision, *Ramnagar Cane & Sugar Co. Ltd. v. Jatin Chakravorty and others* (1961—1—L.L.J. 244). In that case some of the employees of Ramnagar Cane & Sugar Co. Ltd. belonged to the employees union and some to the rival union, workers union. Both the unions presented charter of demands and the workers union served a notice of strike on the company. After some conciliation proceedings the conciliation officer sent his failure report about the failure of conciliation with the workers union on 3rd February 1954. On 25th February 1954, the company and the employees' union arrived at a settlement and it was recorded in the form of a memorandum of settlement. Meanwhile, on 13th February 1954, the workmen belonging to the workers' union went on strike and as a result of this strike a criminal complaint was filed against 11 of the workmen of the workers' union under the West Bengal Security Act XIX of 1950 and the contention of the workers' union was that the workers' union to which the workmen complained against belonged, had left the conciliation proceedings and the conciliation officer had submitted his failure report and that as such neither the workers' union nor the workmen belonging to it were parties to the conciliation proceedings after 3rd February 1954, when the settlement between the company and the employees union was arrived at. In the instant case also the order of reference is 17th September 1969

while Ext. M2 settlement was on 25th October 1969 and Ext. M28 settlement on 31st May 1971 and to neither of the settlements sangh was a party. Assuming that the affected workmen belonged to the sangh ever since the sangh was formed from 30th April 1965, the affected workmen were also not parties to either of the settlements. Having considered the scheme of the Industrial Disputes Act, 1947 the Supreme Court has observed "Section 18(3)(d) makes it clear that, where a party referred to in clauses (a) or (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates to the date of the dispute and all persons who subsequently become employed in that establishment or part, would be bound by the settlement. In other words, there can be no doubt that the settlement arrived at between the appellant (company) and the Employees' Union during the course of conciliation proceedings on February 25, 1954, would bind not only the members of the said union but all the workmen employed in the establishment of the appellant (company) at the date. That inevitably means that the respondents (workmen) would be bound by the said settlement even though they may belong to the rival union. In order to bind the workmen it is not necessary to show that the said workmen belong to the union which was a party to the dispute before the conciliation". As it is already pointed out, Ext. M2 is a settlement arrived at otherwise than in the course of conciliation proceeding and Ext. M28 is one which is arrived at in the course of conciliation proceedings. Under Sub-section (1) of Section 18 of the Industrial Disputes Act, 1947 while Ext. M2 is binding only on the parties to the settlement, Ext. M28 is binding on all those who are employed on that date in the establishment. It is not in dispute that the affected workmen were in the employment of the employers on the date of Ext. M28, i.e. 31st May, 1971. Consequently, they are bound by Ext. M28 settlement irrespective of the fact whether on that date they were members of the union or the sangh. Term 2 of the settlement read with Annexure B thereof stipulates that all the 15 affected workmen shall be placed on permanent cadre with effect from 1st December 1972, subject to their being found medically fit and on their being in continued employment on that date". It is true that the settlements Ext. M2 and M28 have been arrived at while the Reference was pending before this Tribunal and the argument of Shri B. Lal, Advocate for the sangh is that the Tribunal should ignore the settlements and should make the award on the merits. But in *State of Bihar v. D. N. Ganguli* (AIR 1953 S.C. 1018), the Supreme Court was not satisfied with this argument. The Supreme Court has observed "It is true that the Act does not contain any provision specifically authorising the Industrial Tribunal to record a compromise and pass an award in its terms corresponding to the provisions of Order XXIII, rule 3 of the Code of Civil Procedure. But it would be very unreasonable to assume that the Industrial Tribunal would insist upon dealing with the dispute on the merits even after it is informed that the dispute has been amicably settled between the parties. There can, therefore, be no doubt that if an industrial dispute before a Tribunal is amicably settled, the Tribunal would immediately agree to make an award in terms of the settlement." In this view there is no option left for me but to make an award in terms of term No. 2 read with Annexure 8 of the Settlement, Ext. M28.

6. Even ignoring the above settlements, I do not find any case for the sangh. It is an admitted position that the affected workmen were appointed as casual workers. In the Standing Orders, Ext. W.1 there is nothing to show that after six months of their appointment as casual workers the affected workmen ought to have been absorbed on the permanent roll. In the written statement the sangh had stated "It is now well settled by the decisions of several High Courts and also the Supreme Court that where the work is of permanent nature system of casual labour and contract

labour should be forthwith abolished." But no such decision is brought to my notice. As pointed out by me earlier, under the settlement, Ext. M1 read with the discussions, Ext. M10 the wages of the casual workers, inclusive of the affected workmen were raised from Rs. 2.25 to Rs. 2.50 per head per day. In implementation of the settlement, Ext. M2 they were made temporary with effect from 1st November 1969 and in terms of the settlement, Ext. M28 they are to be made permanent with effect from 1st December 1972. No reason is either pleaded or proved why the affected workmen should have been brought on permanent roll from the date of their completing six months service as casual workers.

7. In the result, I find that the 15 affected workmen, whose particulars are given in the schedule of Reference are entitled to be made permanent and paid their wages and other benefits accordingly with effect from 1st December 1972 subject to the conditions and in accordance with term No. 2 of the settlement dated 31st May, 1971. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer,

Central Government Industrial Tribunal

(No. 2), Dhanbad.

[No. 2/49/68/LR.III.]

S. S. SATHASRANAMAN, Under Secy.

MINISTRY OF LAW JUSTICE

(Legislative Department)

CORRIGENDA

New Delhi, the 21st April 1972

S.O. 1031.—In the notification of the Government of India in the Ministry of Law and Justice (Legislative Department, No. S.O. 5573, dated the 23rd December, 1971, published at pages 3435 to 3440 of the Gazette of India, Extraordinary, Part II—Section 3—Sub-section (ii), dated the 23rd December, 1971,—

- (1) at page 3435, in line 20, for "making" read "marking";
- (2) at page 3436,—
 - (i) in line 10, for "languages" read "language or languages";
 - (ii) in line 13 from below, for "Market" read "Marked";
- (3) at page 3437,—
 - (i) in line 8 from below, for "sub-rule" occurring at two places, read "sub-rules";
 - (ii) in line 2 from below, for "elector" read "electors"; and
- (4) at page 3438, in line 16, for "signed" read "be signed".

[No. F. 7(6)/71-Leg.II.]

H. C. VERMANI, Under Secy.

MINISTRY OF WORKS AND HOUSING*New Delhi, the 19th April 1972*

S.O. 1032.—The member of the Metropolitan Council of Delhi having elected on the 8th April, 1972, Sarvshri Radha Raman, Prem Singh and Brij Lal Goswami, as their representatives on the Delhi Development Authority, the Central Government in exercise of the power conferred by sub-section (1), read with clause (f) of sub-section (3) of section 3 of the Delhi Development Act, 1957 (61 of 1957), makes the following further amendment in the late Ministry of Health Notification No. F. 12-137/57-LSG, dated the 30th December, 1957, namely:—

In the said notification, in items No. 7, 8 and 8A for the entries "Shri Vijay Kumar Malhotra, Shri Shiv Charan Gupta and Shri Ram Babu Maheshwari" the following entries shall respectively be substituted, namely:—

"7. Shri Radha Raman.

8. Shri Prem Singh.

8A. Shri Brij Lal Goswami."

[No. 5/2/69-UDI.]

L. M. SUKHWANI, Under Secy.

निर्माण और आवास मंत्रालय

नई दिल्ली, 19 अप्रैल, 1972

एस० ओ० 1032.—दिल्ली महानगर परिषद के सदस्यों ने सर्वश्री राधा रामन, प्रेम सिंह और बृज लाल गोस्वामी का 8 अप्रैल, 1972 को दिल्ली विकास प्राधिकरण में अपने प्रतिनिधियों के रूप में निर्वाचन किया। दिल्ली विकास अधिनियम, 1957 (1957 का 61) की धारा 3 की उप-धारा (3) के खण्ड (च) के साथ पढ़ी जाने वाली उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये केन्द्रीय सरकार भूतपूर्व स्वास्थ्य मंत्रालय की दिनांक 30, दिसम्बर, 1957 की अधिसूचना संख्या एक० 12-137/57-एल०एस०जी० में आगे निम्नलिखित संशोधन करती है, नामतः—

उक्त अधिसूचना की मद संख्या 7, 8, 8(क) में श्री विजय कुमार मल्होत्रा, श्री शिवचरण गुप्ता, तथा श्री राम बाबू महेश्वरी के स्थान पर क्रमशः निम्नलिखित इन्दराज प्रतिस्थापित किये जाएंगे अर्थात्:—

"(7) श्री राधा रामन

(8) श्री प्रेम सिंह

8(क) श्री बृज लाल गोस्वामी"

[संख्या 5/2/69-यू०डी०आई०]

एल० एम० सुखवाणी, अवसर सचिव।

MINISTRY OF STEEL & MINES

(Department of Mines)

New Delhi, the 13th April, 1972

S. O. 1033.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (43 of 1971), the Central Government hereby appoints the officers mentioned in column 1 of the table below, being the officers equivalent to the rank of gazetted officers of Government, to be estate officers for the purposes of the said Act who shall exercise the powers conferred, and

perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction specified in the corresponding entries in column 2 of the said table in respect of the public premises belonging to the Hindustan Zinc Limited, Udaipur.

THE TABLE

Designation of officers	Local limits of jurisdiction
1	2
Superintendent of Mines, Zawar Mines.	Zawar Group of Mines located in Village Zawar, tehsil Girwa and Villages Bhaleria and Rewa Talai, Tehsil Sarafa of District Udaipur (Rajasthan).
General Superintendent, Zinc Smelter, Debari.	Zinc Smelter including the residential colony buildings and open area/land etc., under the Zinc Smelter in village Debari, P. S. Prataonagar, Sub-Division Girwa, District Udaipur (Rajasthan).
Factory Superintendent, Lead Smelter, Tundoo.	Complete Lead Smelter, its various buildings, residential colony and open/land etc. under the Lead Smelter in village Tundoo, Sub-Division Bhagmura, P. S. Bhagmura of District Dhrubad (Bihar).
Senior Administrative Officer, Head Office.	1. Head Office Building, quarters, Guest Houses and office premises of the Company at Headquarters located in Udaipur City (Rajasthan). 2. Maton Mines located in villages Maton, Kanpur and Lakarvas of Tehsil Girwa, District Udaipur (Rajasthan). 3. Rajpura-Dariba group of Mines located in villages Dariba and Rajpura of Tehsil Railmagra, Sub-Division Raj Samand, District Udaipur (Rajasthan).
Officer on Special Duty, Zinc Smelter, Vishakapatnam.	Zinc Smelter in villages Mindi and Mulagada, District Vishakapatnam (Andhra Pradesh).

[No. F. 3(8)/72-Met. II.]

M. S. BHATNAGAR Under Secy.

इस्पात और खान मंत्रालय

(ख न विभाग)

नई दिल्ली, 13 अप्रैल, 1972

का० आ 1033.—लोक परिसर (अप्राधिकृत अधि-भोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, निम्नलिखित सारणी के स्तम्भ 1 में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारियों की पंक्ति के समतुल्य

अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारियों के रूप में एतद्वारा नियुक्त करती है, जो हिन्दुस्तान जिक लिमिटेड, उदयपुर के लोक परिसर के बारे में उक्त सारणी के स्तम्भ 2 में तत्सम्बन्धी प्रविष्टियों में विनिर्दिष्ट अपनी-अपनी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा अथवा उसके अधीन, सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करेंगे और अधिरोषित कर्तव्यों का पालन करेंगे।

सारणी

अधिकारियों के पदामिधान	अधिकारियों की स्थानीय सीमाएं
1	2
खान अधीक्षक, जावर खाने	उदयपुर जिला (राजस्थान) में तहसील गिर्वा के ग्राम जावर, और तहसील सारदा के ग्राम भलेरियां और रीवा तलाई में स्थित जावर खानों का समूह।
महाअधीक्षक, जस्ता स्मेल्टर, देबरी	उदयपुर जिला (राजस्थान) में उप-खण्ड गिर्वा, ग्राम देबरी, पुलिस स्टेशन प्रताप नगर, में जस्ता स्मेल्टर के अधीन रिहायशी कालोनी, भवनों और खुले क्षेत्र भूमि आदि को सम्मिलित करके जस्ता स्मेल्टर।
कारखाना अधीक्षक, सीसा स्मेल्टर, टुण्डू	घनबाद जिला (बिहार) के पुलिस स्टेशन भागमेरा, उत्तखण्ड-भागमेरा, ग्राम टुण्डू में सीसा

1

2

स्मेल्टर के अधीन सम्पूर्ण सीसा स्मेल्टर, इसके विभिन्न भवन, रिहायशी कालोनी और खुली/भूमि आदि।

ज्येष्ठ प्रशासनिक अधि-
कारी, मुख्य कार्यालय

1. उदयपुर शहर (राजस्थान) में स्थित मुख्यालयों में कम्पनी के मुख्य कार्यालय भवन, क्वार्टर, अतिथि गृह और कार्यालय परिसर।

2. उदयपुर जिला (राजस्थान) तहसील गिर्वा के माटीन, कानपुर और लकागवान ग्रामों में माटीन खानें।

3. उदयपुर जिला (राजस्थान) उप-खण्ड राज सामन्द, रेलमागरा तहसील के दरीवा और राजपुरा ग्रामों में स्थित राजपुरा दरीवा खानों का समूह।

विशेष कर्तव्यान्वित अधि-
कारी, जस्ता स्मेल्टर,
विशाखापत्तनम

विशाखापत्तनम जिला (आन्ध्र प्रदेश) के मन्दी आर मुलागदा ग्रामों में जस्ता स्मेल्टर।

[सं० फा० 3(8)/72-धातु-II]

एम० एस० भटनागर, अवर सचिव।

